

P. W. Soughborough  
February 1838





*Littell*  
THE  
STATUTE LAW  
OF  
KENTUCKY;

WITH NOTES, PRÆLECTIONS, AND OBSER-  
VATIONS ON THE PUBLIC ACTS.

—  
IN THREE VOLUMES.  
—

BY WILLIAM LITTELL, ESQ.

—  
*SIC VOS NON VOBIS, &c.*—VIRGIL.  
—

VOLUME III.

—  
TO WHICH IS ADDED,  
AN APPENDIX,

COMPREHENDING ALL THE  
ACTS OF VIRGINIA,

ESTABLISHING AND REGULATING TOWNS, ACADEMIES, FERRIES,  
AND INSPECTIONS, IN THE DISTRICT OF KENTUCKY, AND THE  
ACT GRANTING LAND TO RICHARD HENDERSON AND CO.

TOGETHER WITH

A TABLE OF REFERENCE

TO THE CASES ADJUDICATED IN THE COURT OF APPEALS,  
SINCE OCTOBER TERM, 1809.

—  
FRANKFORT, (KEN.)  
PRINTED FOR WILLIAM HUNTER,  
*By JOHNSTON & PLEASANTS.*

—  
1811.

UNITED STATES OF AMERICA, }  
DISTRICT OF KENTUCKY, } sct.

BE IT REMEMBERED, that on the fifteenth day of June, in the year of our Lord one thousand eight hundred and eleven, and in the thirty-fifth year of the independence of the United States of America, WILLIAM HUNTER, of the said district, hath deposited in this office, the Title of a Book; the right whereof he claims as Proprietor, in the words and figures following, to wit:

“ The Statute Law of Kentucky; with notes, prælections, and observations  
“ on the public acts. In three volumes. By WILLIAM LITTELL, Esq. *Sic*  
“ *vos non vobis, &c.* — Virgin. Volume III. To which is added an appendix,  
“ comprehending all the Acts of Virginia, establishing and regulating towns, academies, ferries, and inspections, in the district of Kentucky, and the act granting land to Richard Henderson and Co. Together with a table of reference to  
“ the cases adjudicated in the court of appeals, since October term, 1809 ”

IN CONFORMITY to the act of the Congress of the United States, entitled “ An act for the encouragement of learning, by securing the copies of Maps, Charts, and Books, to the Authors and Proprietors of such copies, during the terms therein mentioned; ” and also to an act, entitled “ An act supplementary to an act, entitled an act for the encouragement of learning, by securing the copies of Maps, Charts and Books, to the Authors and Proprietors of such copies, during the times therein mentioned, and extending the benefits thereof, to the arts of Designing, Engraving and Etching, historical and other prints. ”

JOHN H. HANNA,

(L. S.)

Clerk of the District of Kentucky

---

## PREFACE.

---

THIS volume completes the NEW EDITION OF THE LAWS OF KENTUCKY, according to the plan submitted to the public in the year 1805 ; and I am not sensible that, in the execution of the work, I have fallen short of what I then promised. If, however, any act of parliament, or of the legislature of Virginia, which ought to have been retained, shall be hereafter found to have been omitted, it may not be too late yet to supply it.

The appendix to this volume contains all the local acts of Virginia, in which the citizens of this country can be interested. The great value of the property depending on these acts, and the great number of persons interested in it, would have been a sufficient motive for inserting them in a work of this kind, even if weightier reasons had not existed. But they can be found only in the session acts of that government : they were not re-printed in the edition of the Virginia laws, published in 1785, nor in the edition published in 1794, nor in the edition lately published by Pleasants and Pace. No one in that state can feel much interest in preserving them ; and they have never before been re-published here. I have, with no small difficulty, barely rescued them from oblivion. In one instance, I was under the necessity of sending to Richmond, in Virginia, for a manuscript copy.

Although it was my intention, originally, to have closed the work with this volume, various considerations have induced me to undertake a fourth volume. This will be commenced in October or November next, and will be published during the ensuing year. That volume will contain the acts of the three sessions now preceding, and of the session now next ensuing, with references as in the other volumes ; and will

9795

C1

likewise contain one GENERAL INDEX TO ALL MATTERS WHATEVER comprised in the whole four volumes. This index will be formed on the plan of the index to Blackstone's Commentaries. The fourth volume will likewise contain some *Lectures on the most important practical parts of the Law*, tending to bring into one view the *result* of the various provisions on the most interesting subjects; such as the office and duty of justices of the peace, of sheriffs, &c. And lastly, I shall, before that volume is completed, again examine the English and Virginia codes, and if, on a review, I shall discover that I have omitted any act which remains in force, it shall be introduced into that volume.

WILLIAM LITTELL.

---

#### ADVERTISEMENT.

THERE is manifestly some mistake in the second section of the act of 1803, respecting fugitives from justice (page 109, of this volume); but on examining the secretary's office for the enrolled bill, to correct it by, no such bill could be found.

# TABLE

## OF THE

### PRINCIPAL MATTERS CONTAINED IN THE ACTS OF ASSEMBLY,

WITH REFERENCES TO THE PAGES.

<b>A.</b>	
Absent defendants,	108
Academies, 36, 206, 280, 334, 440,	525
Actions, limitation of, see limitation of actions.	
Agent of the penitentiary, see penitentiary, No. 27.	
Alimony for wife of convict, see penitentiary, No. 18.	
Amendments in chancery, see conveyance and division of lands, No. 6.	
Arson,	402
Appeals, see court of appeals, and writs of error.	
Assembly, general, see general assembly.	
Attachments, see constables, No. 19.	
Attachments,	239
Attorneys for the commonwealth, 146, 235,	[318, 404]
Attorneys,	215, 304, 508
Auditor and treasurer,	529
<b>B.</b>	
Bail in civil cases, see circuit courts, No. 56.	
Bail in criminal prosecutions, see penal laws, No. 40, and criminal proceedings.	
Bank, see state bank, <i>passim</i> .	
Beef and pork,	329
Blank warrants, see magistrates, No. 2.	
Bonds, forthcoming and replevin, see writs of error.	
Breaking prison, see prison breaking and penal laws.	
Boundary of the state,	80
<b>C.</b>	
Canal, Ohio, see Ohio canal.	
Certificates, see plats and certificates;	
Chancery,	498
Change of venue, see venue, change of;	
Circuit courts,	37, 85, 184, 504
Civil suits for the commonwealth,	189
Civil proceedings,	501-3
Clergy,	203
Clerks,	83, 119
Common law, criminal, see criminal common law.	
Company, see insurance company—Ohio canal.	
Congressional districts,	5
Conscientious persons,	216
Constables,	126, 328
Constitution, federal,	149
Conveyance and division of land,	18, 460
Convicts, their families and estates, see penitentiary, Nos. 19, 20.	
Convicts,	515
Coroners,	131
Costs on presentments,	353
Cotton, see inspections.	
Courts,	162, 318
Court of appeals,	100, 178, 488
Court, general,	118
Courts, circuit, see circuit courts.	
Courts, county, where to be held, see circuit courts, Nos. 5 & 117.	
Crimes, see penal laws, <i>passim</i> .	
Criminal common law,	50, 148, 186, 246
Criminal proceedings,	291
<b>D.</b>	
Debt, public,	306, 386, 478
Deeds,	358
Delinquent surveyors,	6r
Delinquent lists, see taxes.	
Depositions,	324
Destruction of records,	155
Districts, congressional,	5
Districts, judicial, see circuit courts, Nos. 94, &c.	

Division of land, see conveyance and division.			
Dower,	133		
<b>E.</b>			
Ejectments,	458		
Election, writs of, see writs of election.			
Elections,	472		
Entry Books,	530		
Error, writs of, see writs of error.			
Executions,	59		
<b>F.</b>			
Federal constitution,	149		
Fees, see general court—surveyors' fees—officers' fees—magistrates—justices.			
Ferries,	361		
Fines,	374		
Fines on presentments, see costs of presentments.			
Fire engine,	376		
Forfeiture, see lands.			
Free negroes,	499		
Fugitives from justice,	108, 300		
<b>G.</b>			
Gaming,	176		
General court, see court, general.			
General assembly,	399, 404, 473		
Governor,	321		
Grants,	141		
Green river,	467		
<b>H.</b>			
<i>Habeas corpus</i> , see circuit courts, No. 26, criminal proceedings, No. 17.			
Heirs, see conveyance and division of lands.			
<b>I.</b>			
Idiots, see persons of unsound mind.			
Inn keepers, see tavern keepers.			
Infants, their recognizances, see criminal proceedings, No. 18.			
Injunctions, see circuit courts, No. 26.			
Inspections,	20, 124		
Insurance company, Kentucky,	25, 213		
<b>J.</b>			
Jailors,	242		
Jailors, see circuit courts and penal laws, Nos. 25, 26.			
Judges of the court of appeals,	358		
Juries, petit,	402		
Jurisdiction,	439		
Justices of the peace, 82, 242, 352, 376, 503			
<b>K.</b>			
Kentucky insurance company, see insurance company.			
Kentucky river,	120-3		
<b>L.</b>			
Lands, see conveyance and division of land, and sale of lands for taxes.			
Lands,	192, 330, 335, 408, 431		
Licking, see main Licking.			
Limitation of actions,	482		
<b>M.</b>			
Magistrates,	48, 291		
Main Licking,	8, 258, 366		
Mill dams,			
Militia,	418, 517		
Money,	93, 165, 245, 321, 408, 531		
Monks, see conscientious persons.			
Motions, see writs of error.			
<b>N.</b>			
Navigation, see Green river.			
<i>Ne exeat</i> , see circuit courts, No. 26.			
Negroes, free, see free negroes.			
Notices,	458		
<b>O.</b>			
Ohio canal company,	221, 259, 373		
Offices incompatible,	357		
Officers' fees,	34, 485		
Opinions of the court of appeals,	236		
<b>P.</b>			
Pedlars,	342		
Penal laws,	63, 240, 279		
Penitentiary,	70, 298, 397		
Persons of unsound mind,	169		
Petition and summons,	315		
Platts and certificates,	119, 168, 330, 525		
Pork, see beef and pork.			
Poor,	133		
Postage,	235		
President of the United States,	526		
Prison breaking,	59		
Public debt, see debt, public.			
<b>Q.</b>			
Quakers, see conscientious persons.			
<b>R.</b>			
Recognizance, how to be taken from infants and <i>femes covert</i> , see criminal proceedings, No. 18.			
Records, destruction of,	155		
Register,	210, 313		
Reports,	457, 486		
Representation,	147, 452		
Revenue,	309		
Riots, Routs, &c.	55		
Roads,	126, 245, 459		
Road, turnpike, see turnpike road.			
Road, State, see State road.			

# TABLE OF CONTENTS.

vii

<b>S.</b>		Title papers,	58
Sales of land for taxes,	83	Tobacco,	526
Salt licks,	49, 50	Treasurer, see auditor and treasurer.	
Seals,	234	Turnpike road,	52, 125, 210, 282, 510
Secretary of state,	304	<b>U.</b>	
Senatorial district,	250	United States,	142, 203 4
Settlers, 60, 79, 142, 151, 175, 196	406	<b>V.</b>	
Sheriffs,	144, 169, 341	Vacant lands,	132, 360
Slaves,	24	Venue, change of,	7, 152, 189
Slaves, trial of,	403	<b>W.</b>	
State boundary, see boundary.		Warlike enterprises, act against, [ch. fired]	370
State road,	461	Water company in Frankfort, incorpo- rated,	287
State bank,	390, 452, 528	Water works, see Kentucky river.	
Surveyors, delinquent, see delinquent surveyors.		Wolves, killing of, act concerning [re- pealed]	101
Surveyors' fees,	36, 234	Writs of election,	91
Surveyors,	405	Writs of error,	92, 120
Swine,	112		
<b>T.</b>			
Tavern keepers,	246		
Taxes,	157, 179		





A C T S  
OF THE  
GENERAL ASSEMBLY  
OF  
KENTUCKY.

---

November Session, 1802.

---

CHAPTER I.

*An ACT to amend the act, entitled "an act to vest certain Lands in Trustees for the purpose of an Academy in the County of Franklin."*

1802.

Approved November 19, 1802.

**B**E it enacted by the general assembly, That so much of the sixth section of the said recited act as prohibits the trustees of the said academy from alienating any part of the lands granted to them for the purposes therein mentioned, for a longer term than seven years, shall be, and the same is hereby repealed; so far as the said trustees shall have power, and are hereby authorised to sell, or otherwise dispose of any part of said lands, not exceeding one eighth part of the quantity granted them by the said recited act, in the same manner, and for the same purposes as is expressed in the first section of an act, entitled "an act to amend an act entitled an act for the endowment of certain seminaries of learning, and for other purposes," passed on the 20th day of December, 1800.

This act shall commence and be in force from the passage thereof.

VOL. III.

B

1802.

## CHAPTER II.

*An ACT concerning the Town of Cynthiana.*

Approved December 4, 1802.

Preamble.

WHEREAS it is represented to this general assembly, that the trustees of the town of Cynthiana, nominated by the act of assembly establishing said town, have chosen others, and the records of those appointments have been lost; and the proceedings under all subsequent trustees have thereby become uncertain, owing to the loss of the records: for remedy whereof,

Acts of trustees  
legalized:

Sec. 1. *Be it enacted by the general assembly,* That all the acts of those persons who have filled the office of trustees since the resignation of the original trustees, are hereby legalised, as far as they have acted under, and agreeable to the power of the original trustees.

Inhabitants to  
elect trustees.

Sec. 2. *And be it further enacted,* That each free male inhabitant of the said town, aged twenty-one years, or upwards, (except Indians, free negroes and mulattoes) who have resided in the said town six months previous to the election, are hereby authorised to elect and choose, on the first Monday in January next, and on the same day in every two years afterwards, five freeholders, living in the said town, as trustees thereof.

Election, where  
held, and by  
whom conducted.

Sec. 3. *And be it further enacted,* That the election shall be held at the court-house in the said town, by one of the trustees of the board, to be appointed by the board for that purpose, after the first election; and if the board shall fail to make such appointment, the election shall be held by a justice of the peace, ten days previous notice of the election being given by advertisement: and that vacancies occasioned by death, resignation, or otherwise, shall be supplied by election, made in manner herein before directed, on a day to be appointed by the remaining trustees; and that returns of elections be made to the clerk of the board, who shall record the same in his books.

Vacancies, how  
filled.Power of the  
trustees.

Sec. 4. *And be it further enacted,* That the trustees so elected, shall have the same power that trustees have under the act of assembly establishing towns; and also shall have power to shut up such streets and alleys as shall appear never can be beneficial or advantageous to said town, and such as by keeping them open can be of

## XI. YEAR OF THE COMMONWEALTH.

3

no service to the public or individuals : *Provided nevertheless*, should any person think himself injured by shutting up any street or alley, it shall be lawful for the sheriff of the county to summon a jury of freeholders, no way interested or related to either party, to enquire into the damages, on the application of the person thinking himself injured, to the county court, who shall have power to issue a writ in the nature of a writ of *ad quod damnum* for that purpose ; and the county court shall thereupon give judgment and award execution as in other cases ; and the person shutting up the street or alley shall pay the damages assessed by the jury, and open the street or alley, if in the opinion of the jury it ought to be done.

1802.

*Proviso.*

Sec. 5. All acts coming within the purview of this act, are hereby repealed.

*Repealing clause.*

This act shall be in force from the passage thereof.

### CHAPTER III.

#### *An ACT erecting the County of Wayne into an Election Precinct.*

Approved December 13, 1802.

WHEREAS the citizens of the county of Wayne, are compelled to attend at the court-house in the county of Pulaski, to vote in all elections, and it appears that in consequence thereof, they are subjected to considerable expence and trouble, having to travel a great distance, and to cross Cumberland river : therefore,

*Preamble.*

Sec. 1. *Be it enacted by the general assembly*, That the citizens of the county of Wayne, entitled to vote, shall, in all elections in future wherein they have a right to give their suffrage, vote at the court-house of the county of Wayne, and the elections shall be held in like manner, and the sheriff and officers conducting the same, shall be subject to like penalties, and entitled to the same allowance for their services, as are by law prescribed in similar cases.

*Citizens of Wayne county to vote at their court-house.*

Sec. 2. The sheriffs of the counties of Wayne and Pulaski, shall meet at the court-house of Pulaski county, on the sixth day from the commencement of the election, to compare the polls taken in each county, and shall return the person who has the greatest number of

*Sheriff of, to meet at Pulaski court-house to compare polls.*

NOVEMBER SESSION,

1802.

votes for such office as he may have been polled for, in the same manner as is directed by law in like cases.

This act shall be in force from the passage thereof.

CHAPTER IV.

*An ACT providing for the opening of a Road from Mountsterling, or Paris, to Big Sandy River.*

Approved December 13, 1802.

Preamble.

WHEREAS it is represented to the present general assembly, that a good way can be had from Mountsterling, or Paris, to Big Sandy river, in a good direction to communicate with the Greenbrier road in Virginia, which strikes the Kanawah river at William Morris's, and it appearing that a road in that direction would save a considerable distance in travelling from this country into the eastern states, and that the opening of said road would be of great public advantage :

Commissioners appointed, and their powers as to viewing and marking the road.

Where to commence, and its direction.

Duties of the viewers,

How they are to be paid.

Sec. 1. *Be it therefore enacted*, That James Trotter, William Kelly, Richard Manifee, Joseph H. Daveiss, and Benjamin Howard, be, and they are hereby appointed commissioners, who shall have full power and authority to employ one or more fit persons to view and mark out the nearest and best way from Mountsterling, or Paris, to Big Sandy river, having regard to the best course to communicate with the Greenbrier road, at Morris's on the Kanawah river; the said commissioners shall, and they are hereby empowered to employ the said markers and viewers as soon as convenient, who shall proceed to view and mark the road aforesaid immediately, and make a report of their view to said commissioners, taking notice therein of the creeks that said road will cross, their size and number, the probable expence which will accrue in opening and cutting a road that way, and of a certain width, to be mentioned by said commissioners; and if it shall appear to said commissioners that the said viewers have done their duty faithfully, in viewing and marking said way, it shall be lawful, and they are hereby authorised to issue their certificate to the auditor of public accounts, in favor of said viewers, for any sum which they may think reasonable, not exceeding eighty dollars, and the auditor is hereby directed to issue his warrant on the treasury for the said sum.

## XI. YEAR OF THE COMMONWEALTH.

5

Sec. 2. *And be it further enacted*, That the said commissioners shall, and they are hereby authorised to open subscriptions for the purpose of raising money to open and clear out said road; and so soon as they shall, in their opinion, have got a sufficient sum subscribed, they shall, and are hereby authorised to contract with a proper person for opening such road, in such manner as the sum subscribed will enable them; and the said undertaker shall enter into bond and approved security, to said commissioners, for the faithful performance of his contract; and the said commissioners shall have full power to collect the subscription money aforesaid, or to assign the subscription papers to the undertaker or undertakers aforesaid, as to them or a majority of them may seem best; and in case they should assign said papers, the said undertaker is to take them without recourse to the said commissioners: and it is to be understood, as the true intent and meaning of this act, that a majority of said commissioners have full power to do any thing under this act, which the whole of them might do.

1802.  
Subscriptions to  
be opened, and  
for what pur-  
pose.

How they are  
to be collected.

Sec. 3. *And be it further enacted*, That the said commissioners, or in case the subscription papers shall be assigned to the undertaker aforesaid, the said undertaker shall have power and authority to recover the money subscribed by a delinquent subscriber, before any justice of the peace, for sums under five pounds, and by motion in the court of quarter sessions of the county wherein said subscriber shall reside, for all sums of five pounds and upwards: *Provided always*, that said subscriber shall have ten days notice thereof.

By warrant or  
by motion.

This act shall commence and be in force from and after the passage thereof. To commence.

### CHAPTER V.

*An ACT dividing this State into Congressional Districts.*

Approved December 13, 1802.

*Vide* Vol. I, Chap. 8, and the Notes.

WHEREAS by a law passed at the last session of congress, the state of Kentucky is entitled to six members to represent it therein: Preamble,

Sec. 1. *Be it therefore enacted*, That this state shall be, and it is hereby divided into six congressional districts. State divided into districts.

## NOVEMBER SESSION,

- 1802.
- First.** Sec. 2. The first district to consist of the counties of Livingston, Henderson, Christian, Logan, Warren, Barren, Muhlenberg, Ohio, Adair, Cumberland, Pulaski and Wayne.
- Second.** Sec. 3. The second district to consist of the counties of Madison, Garrard, Lincoln, Mercer and Knox.
- Third.** Sec. 4. The third district to consist of the counties of Green, Washington, Nelson, Hardin, Breckenridge, Bullitt and Jefferson.
- Fourth.** Sec. 5. The fourth district to consist of the counties of Shelby, Henry, Gallatin, Franklin, Scott, Harrison, Campbell, Pendleton, Boone and Bracken.
- Fifth.** Sec. 6. The fifth district to consist of the counties of Woodford, Fayette, Jessamine, Clark and Montgomery.
- Sixth.** Sec. 7. And the sixth district to consist of the counties of Bourbon, Nicholas, Mason, Fleming and Floyd.
- Elections, when and where held.** Sec. 8. *Be it further enacted*, That on the first Monday in August next, the qualified voters in the several districts aforesaid, at the places they vote for representatives for the state legislature, shall also vote for some fit person, who shall reside within this state, being twenty-five years of age, and having been seven years a citizen of the United States, to represent them in congress for two years from the third day of March 1803. The next succeeding election shall be held for representatives to congress at the general election in this state in the year 1804; and every second year forever thereafter.
- Mode of ascertaining the person elected.** Sec. 9. *Be it further enacted*, That the sheriffs of the several counties in each district, shall, on the fifteenth day after the commencement of their elections, assemble at the places hereafter designated in this act, in each of their respective districts, and then and there, by faithful comparison and addition, ascertain the person elected in their district.
- Where the sheriffs are to meet** Sec. 10. The sheriffs for the first district, at the court-house in the county of Logan; the sheriffs for the second district, at the court-house in the county of Garrard; the sheriffs for the third district, at the court-house in the county of Nelson; the sheriffs for the fourth district, at the state-house; the sheriffs for the fifth district, at the court-house in the county of Fayette; the sheriffs for the sixth district, at the court-house in the county of Nicholas.
- Sec. 11. *Be it further enacted*, If on comparing the

## XI. YEAR OF THE COMMONWEALTH.

7

polls in any one district, it shall so happen that two candidates stand equal in number, the sheriffs so assembled, shall vote for any one of them; and if after such vote an equal number shall remain, in that case the sheriffs shall determine by lot which of the candidates shall be returned elected.

1802.

In case of an equal number of votes, the sheriffs shall vote.

Sec. 12. After having ascertained, as before directed, the person elected in each district, the sheriffs thereof shall make out a certificate of the election of the person in their district, which shall be signed by all the sheriffs of the district, and which shall be lodged with the sheriff of the county wherein the polls are compared, and by him, together with a copy of the polls, transmitted to the secretary of state.

Sheriffs to give certificates, &c.

Sec. 13. *And be it further enacted*, That the sheriffs, for assembling to compare the polls, and for transmitting the necessary papers to the secretary, shall be entitled to the same compensation as sheriffs are for their services for comparing polls in case of electing senators in this state.

Allowance to sheriffs,

This act shall commence and be in force from and after the passage.

To commence,

### CHAPTER VI.

*An ACT to amend the several acts prescribing the mode of obtaining Writts of Certiorari, and for other purposes.*

Approved December 13, 1802.

*Vide* Vol. II, Chap: 36, and the Notes.

*BE it enacted by the general assembly*, That no change of venue shall hereafter be granted in any cause depending, or that shall be depending in any court of quarter sessions in this commonwealth, until the party applying for such change, shall produce to the judge to whom such application shall be made, sufficient proof that the opposite party has had ten days notice in writing, of the time and place such application is intended to be made; or in case of absence out of the county, to his, her, or their agent or attorney in fact, which notice shall be certified by the judge granting such change, to the clerk where the suit was commenced. So much of every act as comes within the pur-

1802. view of this act, shall be, and the same is hereby repealed.

This act shall commence and be in force from and after the passage thereof.

### CHAPTER VII.

*An ACT to repeal an act entitled "an act allowing Mills to be built on Main Licking, under certain restrictions."*

Approved December 13, 1802.

*Vide Vol. I, Chap. 48, and the Notes.*

Act repealed.

SECTION 1. *BE it enacted by the general assembly,* That an act entitled "an act allowing mills to be built on Main Licking, under certain restrictions," shall be, and the same is hereby repealed.

Penalty for making obstructions.

How applied.

Sec. 2. *And be it further enacted,* That if any person hereafter do make, or cause to be made, any fishdam, or other obstruction in Main Licking, below the lower Blue Licks, such person shall be liable to an action for damages, at the suit of the party injured thereby; and also for every such offence, he shall forfeit and pay the sum of sixteen dollars for every twenty-four hours such obstruction shall remain in said river, to be recovered with costs, before any justice of the peace in the county where such offence may be committed, one half to the informer, or to any person suing for the same, and the other half to be applied towards lessening the county levy in that county; and it shall be the duty of said justice to lay a copy of such judgment before the county court at the time of laying their next county levy.

This act shall be in force from the passage thereof.

### CHAPTER VIII.

*An ACT to amend the several acts concerning the Town of Louisville.*

Approved December 15, 1802.

SECTION 1. *BE it enacted by the general assembly,* That so much of the before recited acts, which provides for the erection of a market house upon the public square in the said town of Louisville, shall be, and the same are hereby repealed.



## XI. YEAR OF THE COMMONWEALTH.

9

Sec. 2. *And be it further enacted*, That the trustees for the said town, or a majority of them, shall have power, and they are hereby authorised and required to fix upon some proper place within the said town, for the purpose of erecting a market-house thereon, and which shall be most convenient to the inhabitants of said town.

1802.

This act shall commence and be in force from and after the passage thereof.

### CHAPTER IX.

*An ACT to amend the act to reduce into one the several acts concerning Mill-Dams, and other Obstructions in Water Courses.*

Approved December 15, 1802.

*Vide Vol. I, Chap. 48, and the Notes.*

*BE it enacted by the general assembly*, That when any application shall be made to any county court within this commonwealth, with a view to the erection of a water grist-mill, in any town lying within the said county, the said court shall have and possess the same authority therein, as it now has in those cases where the ground upon which it is proposed to erect the said mill lies without the limits of a town : and the said county court shall be governed in all respects in receiving and acting upon such application, by the rules and regulations prescribed by the act to reduce into one the several acts concerning mill-dams and other obstructions in water courses.

This act shall commence and be in force from and after the first day of April next.

### CHAPTER X.

*An ACT to reduce into one the several acts concerning Bardstown, in Nelson County.*

Approved December 15, 1802.

SECTION 1. *BE it enacted by the general assembly*, That it shall be lawful for all free white male inhabitants of Bardstown, in Nelson county, aged twenty-one years and upwards, to elect annually, on the first Saturday in April, seven trustees ; which election shall be

Trustees to be elected.

VOL. III.

C

1802. conducted by one or more of the then acting trustees, to be appointed by the board for that purpose; ten days previous notice thereof shall be given by the chairman of said board, by advertisement at the door of the court-house, and the most public places in said town; which elections shall be held in the court-house of the said county, in the town aforesaid; a return of persons elected as trustees aforesaid, shall be made to the clerk of said board, and by them recorded on their journals; and before the trustees aforesaid shall proceed to act, they shall take an oath to discharge the duties of their office as trustees, without favor, affection or partiality.

Sec. 2. It shall be lawful for the trustees, or a majority of them, to appoint a clerk, who shall continue in office until the next annual election for trustees as aforesaid, which said clerk shall take an oath (to be administered by one of the trustees when sitting as a board) that he will, to the best of his skill and ability, make true entries of the proceedings of the said board; and that he will safely keep and preserve the books and papers given him in charge by the trustees aforesaid, or any person for them; and that he will return the same to them when called on by a majority of the said trustees; and shall moreover acknowledge himself responsible to said board for any neglect or malfeasance in his office, an entry of which shall be made on the journal of said board; and it shall be the duty of the clerk of said board to administer any oath or oaths, to any person or persons, that may be deemed necessary by said board, under this act.

Sec. 3. The said trustees, or a majority of them, shall have power to levy a tax not exceeding one hundred and fifty dollars, annually, on the titheables and property, both real and personal, within the said town, to be collected and accounted for as herein after directed; which shall be applied by the said board as they shall deem most proper for the benefit of said town.

Sec. 4. The said trustees, or a majority of them, shall, on or before the twentieth day of April annually, appoint a commissioner for the purpose of procuring a list of each individual's property lying and being in said town; which said commissioner, before he enters upon the duties of his office, shall take an oath before the clerk of said board, or some justice of the peace for Nel-

son county, that he will faithfully, to the best of his skill and ability, without favor, affection or partiality, discharge the duties hereby enjoined him; and shall, on or before the first day of May ensuing, proceed without delay to call on each person residing in said town, both on the in-lots and out-lots thereof, or those who may hold lots or other property in said town, his, her, or their agent (if any such there be) for a written list of his or their property; and the said commissioner shall administer an oath or affirmation to each person giving in such list, to the truth thereof, and shall value the property so listed, and note the amount thereof on such list; and in case of neglect or refusal on the part of the person called on by the commissioner as aforesaid, or in case of a person holding property in said town and not residing therein, and having no agent in said town, it shall be lawful for such commissioner to make out a list of such person's property from the best information he can procure, and to affix the valuation as aforesaid; which list shall be returned by the said commissioner to the clerk of the board of trustees, on or before the 30th day of May, who shall immediately call a board of said trustees, who shall apportion the tax as near as possible among the several persons whose lists of property are returned as aforesaid to the clerk of said board.

1802.

His duty.

A collector shall be appointed by the said board annually, who shall, before he enters upon the duties of his office, make oath before the clerk of the said board, that he will truly and faithfully perform all the duties enjoined him by this act; and shall moreover give bond and sufficient security, to be approved of by the said board, payable to the trustees of Bristown and their successors, in the penalty of five hundred dollars, conditioned for the true performance of his duty as collector aforesaid; which said collector shall have power to make distress for the taxes herein mentioned, in the same manner and under the same restrictions as collectors of the public revenue of this commonwealth are by law allowed; and the clerk of said board shall make out two complete copies of the amount of the tax levied by the said board on each person, in dollars and cents, one of which he shall deliver to said collector, and the other shall be set up at the door of the court-house in said town.

A collector to be appointed.

To give bond.

Clerk to make out lists.

1802.

How valuations  
may be corrected.

Sec. 6. If any person or persons shall think himself or herself injured in the valuation of their property by the commissioner before mentioned, such person or persons may apply to the board of trustees, and if in the opinion of said board, such persons are injured, they shall direct their clerk to make such alteration therein as to them shall appear just, provided such application is made before the apportionment of the taxes as herein before directed.

Trustees to  
elect.

Sec. 7. The said trustees shall form a board at least three times a year; and they shall have power to inflict a fine on each member, not exceeding four dollars, who shall fail to attend, without a reasonable excuse.

Titheables not  
to work on roads

Sec. 8. No titheables in the said town shall be compelled to work on any public road, more than the distance of one mile from the public square thereof.

Penalty for racing.

Sec. 9. Any person who shall be guilty of running or racing horses in the streets, alleys and highways of said town, or of throwing bullets or shooting at marks within the bounds thereof, he or they so offending, shall forfeit and pay, for every such offence, the sum of five dollars, to be sued for by the said trustees, before some justice of the peace for Nelson county, and applied to the benefit of said town. And every person or persons who shall be guilty of shewing a stud-horse in the streets or highways of said town, shall forfeit and pay the sum of three dollars for every such offence, to be recovered and applied as before directed.

For shewing a  
stud-horse.

For stopping  
streets.

Sec. 10. Any person who shall be guilty of stopping the streets or alleys, or leaving any rubbish, from old buildings or otherwise, in the streets, alleys, or public square of said town, a longer time than twenty-four hours, without the consent of a majority of the trustees of said town; he or they so offending, for every twenty-four hours, shall forfeit and pay the sum of five dollars, to be recovered and applied as fines and forfeitures are herein before directed.

Trustees to  
make by-laws.

Sec. 11. The trustees aforesaid shall have power to make any by-law or laws for the government of said town as they may deem expedient, not inconsistent with this act, or the laws and constitution of this state, or the United States: they shall have power to erect a market-house at such place in said town as a majority of them may deem proper, under such regulations and restrictions.

## XI. YEAR OF THE COMMONWEALTH.

13

as the said board may judge most convenient ; and to lay such fine or fines for the breach of any of their said by-laws, not exceeding fifteen dollars, to be sued for by warrant before a justice of the peace, and applied to the benefit of said town, as the trustees may think most proper.

1802.

Sec. 12. The said trustees shall appoint a treasurer (not of their own body) who shall act under such restrictions and regulations as the said board may from time to time establish.

To appoint a treasurer.

Sec. 13. The said trustees, or a majority of them, shall be, and they are hereby authorised to employ some good surveyor to survey, under the superintendence of the trustees, the land whereon said town is established, and to make out a plan or plat thereof, and return the same to the board, who shall have the same recorded by their clerk, in a book to be provided for that and other purposes, or in the clerk's office for the county of Nelson.

Plan of the town to be recorded.

Sec. 14. *And be it further enacted*, That in case the collector appointed as aforesaid, shall fail to collect the taxes, and account for the same, within three months after the list of taxes are delivered to him, he shall be liable to the same penalties as is by law inflicted on delinquent sheriffs in this commonwealth for failing to pay the public revenue ; and the county court of Nelson, when such collector or collectors shall be guilty of any such neglect, is hereby directed to give judgment against such collector and his securities ; provided the said trustees, or their clerk, give them ten days notice of such motion ; and the said court shall award execution for the amount of such judgment and costs.

Collector's penalty for failure of duty.

Sec. 15. The said trustees shall allow their clerk, and other officers by them employed, such compensation for their services as they may think proper.

Allowance to clerk.

Sec. 16. The present trustees for said town are hereby directed and required to deliver all plats, papers, and monies, which now are, or may be in their hands at the time of the first election for trustees under this act, to the clerk of the board of trustees, which may be appointed under this act, for which the said clerk shall give a receipt.

Present trustees to deliver up plats.

Sec. 17. *And be it further enacted*, That in case a sufficient number of the present trustees will not meet to

Election regulations.

1802. appoint and regulate the first election under this act, it shall be the duty of some justice of the peace for Nelson county, to hold such election, under the rules and regulations herein before mentioned.

Repealing  
clause.

Sec. 18. So much of every act, or parts of acts, as comes within the purview of this act, shall be, and the same are hereby repealed.

To commence. This act shall commence and be in force from and after the passage thereof.

### CHAPTER XI.

*An ACT to amend the several acts concerning the Town of Frankfort.*

Approved December 16, 1802.

Trustees to be  
elected, when  
and by whom. SECTION 1. *BE it enacted by the general assembly,* That it shall be lawful for all free white male inhabitants of the town of Frankfort, and those within one mile of the public square in the said town, aged twenty-one years or upwards, to elect annually, on the third Tuesday in March, seven trustees: which election shall be conducted by one or more of the then acting trustees, to be appointed by the board for that purpose; ten days previous notice thereof shall be given by the chairman of said board, in the most public places in said town: and the return of persons so elected shall be made to the clerk of said board, and by him recorded in their journal. The said trustees, before they proceed to business, shall take an oath to discharge the duties of their office, as trustees, without favor, affection or partiality: and the clerk of said board shall have power to administer oaths to any person or persons coming before the board under the directions of this act.

To take oath.

Must be free-  
holders.

Vacancies how  
filled.

Clerk to be ap-  
pointed.

Sec. 2. No person shall be capable of being elected to act, or of acting as a trustee, who is not a freeholder and an inhabitant of said town. All vacancies occasioned by death, resignation, or otherwise, of any of the trustees aforesaid, shall be supplied by an election to be holden as aforesaid, on some day to be named by the board.

Sec. 3. The said board shall appoint a clerk, who shall hold his office until the next annual election of trustees; but, for good cause, may be removed: and the clerk so appointed, before he enters on the duties of his office, shall take an oath, to be administered by the chair-

man of said board, that he will, to the best of his skill and ability, make true entries of the proceedings of said board, and that he will safely keep the books and papers given him in charge: and shall moreover acknowledge himself responsible to said board for any neglect or malfeasance of office: and an entry thereof shall be made on the journal of said board.

1802.

Sec. 4. The said trustees shall have power to levy and enforce the collection of a tax, not exceeding two hundred dollars annually, on the titheables and property, both real and personal, within the said town and limits, and shall have a lien on such property until the tax thereon be paid, and shall apply the said tax to such purposes as they shall deem proper for the benefit of said town.

Trustees may  
levy a tax.

Sec. 5. The said trustees shall, on or before the 20th day of April, annually, appoint a commissioner for the purpose of procuring a list of each individual's property, lying or being in the said town; which said commissioner, before he begins to exercise the duties of his office, shall make oath before some justice of the peace, that he will, to the best of his skill and ability, without favor, affection, or partiality, discharge the duties hereby enjoined him, that is to say, he shall, on or before the first day of May, proceed without delay to call on each person resident within the said town or limits, or holding a lot or lots, or other property therein, or his or her agent, (if any such there be) for a written list of his or her property, which being corrected (if necessary) and distinctly read over by the commissioner to the person delivering the same, he or she shall make oath or affirmation, to be administered by the said commissioner, to the truth of such list; and the said commissioner shall value the property so listed, and note the amount of such valuation on such list; and in case of neglect or refusal on the part of the person so called upon to give a list of his or her property as aforesaid, or in case of a person holding property in said town, but residing without the limits thereof, and having no agent therein, it shall be lawful for the commissioner to make out a list thereof from the best information he can procure, and to fix the valuation thereof as afore mentioned; which list shall, on or before the fifteenth day of May, be returned by such commissioner to the board of trustees, who may proceed immediately to apportion the tax, to be collec-

Commissioner  
when to be ap-  
pointed.

His duty.

Trustees to ap-  
portion the tax.

1802. *Persons aggrieved may appeal to the board.* ted agreeably to the valuation aforesaid: *Provided, however,* that if any person shall conceive him or herself aggrieved by such valuation, he or she may appeal to the board of trustees at their next meeting, who shall, if they see cause, reduce the estimate of such valuation; and if any person, when called on by the commissioner, shall give or deliver a false or fraudulent list, he or she shall be liable to a fine of ten dollars, and to pay a triple tax, to be sued for, recovered and applied as hereafter directed.

*Titheables shall work on the streets, &c.*

*Overseer to be appointed.*

*Penalty on titheables for not working.*

*And on surveyor for neglect of duty.*

*Horse-racing, &c. prohibited.*

*Penalty.*

*Collector to be appointed, and his duty.*

Sec. 6. The trustees shall have power to call out the male titheables of said town, for the purpose of working on the streets and roads leading from the several landing places on the Kentucky river, and for removing nuisances, under the superintendence of a surveyor, or overseer, to be appointed by said board; whose duty it shall be, when directed by the board, to call upon the said titheables to meet on some day, and at a certain place, with proper tools for the purposes aforesaid; and every such person failing to attend so equipped, or who shall refuse to labor under the direction of said surveyor or overseer, or to find some person equally able to work in his room, provided he hath three days notice of the time and place aforesaid, shall be liable to pay the sum of one dollar and twenty-five cents, to be sued for, recovered and applied as hereafter directed; and if the surveyor so appointed, and accepting said appointment, shall fail or refuse to comply with the duties hereby required of him, he shall be liable to be fined in the sum of four dollars, and to be displaced from his office; which fine shall be sued for, recovered and applied as hereafter directed: and the inhabitants of said town shall not be compelled to work on any road out of the limits thereof.

Sec. 7. Any person who shall be guilty of running or racing horses in the streets, playing or throwing bullets, or shooting at marks, within the in-lots of said town; such person shall, for every such offence, if a white person, forfeit and pay the sum of three dollars, to be sued for and recovered as hereafter directed; and if a slave, shall be whipped at the discretion of a justice of the peace, not exceeding fifteen lashes.

Sec. 8. And the said trustees, when they have laid and apportioned the tax on the property assessed and valued as aforesaid, shall appoint a collector, whose du-



ty it shall be to collect and account for such tax within three months after a list of the same shall be put in his hands ; and if any person shall refuse to pay the same, the said collector shall have power to seize and sell so much of his property as will be sufficient to make the tax by him or her due ; and the collector shall deliver the money so collected to the trustees, or the person who may be appointed by them to receive it, deducting therefrom such compensation for his services as the said board shall have agreed to pay him : *Provided, however,* that before the said collector shall proceed to business, he shall give bond with sufficient security, payable to the trustees, in the penalty of five hundred dollars, for the faithful discharge of the duties of his office ; and should he fail to comply with the conditions of said bond, the county court of Franklin county, which is hereby specially authorised and empowered, may, on application or motion of the chairman of said board, give judgment and award execution against said collector, for such sum or sums, with ten per cent. damages on the same.

1802.

Sec. 9. Whereas it appears that the original plat of the said town, has not as yet been recorded, and that there have been several additions thereto, which additions, together with the original plan, are connected together so as to form one entire plan, which connection is now in the possession of said board ; and it is deemed right that the same should be recorded in some fit court of record : therefore, the said trustees are hereby empowered to cause the said entire plan to be recorded ; and the same shall be taken, deemed and held as the true plan or plat of said town, over which the jurisdiction of said board shall extend ; and they are hereby empowered to settle any dispute which may arise as to the limits or bounds of the lots, streets and alleys therein contained.

Plat of the town to be recorded.

Sec. 10. *And be it further enacted,* That from and after the first day of February next, no person shall be permitted to keep or raise hogs within the limits of said town, unless they be kept up in a pen or sty, which pen or sty shall not bind on nor be contiguous to any street in said town. If any hogs are found going at large after the said first day of February next, belonging to any inhabitant of said town, the owner or proprietor thereof

Hogs prohibited from running at large.

Penalty.

1802. shall be liable to a fine of one dollar per day for each hog which he may suffer thus to run at large : which fine shall be sued for, recovered and applied as other fines mentioned in this act.

Trustees may  
make by-laws,  
&c.

Sec. 11. The trustees aforesaid shall have power to make any by-law or laws, rules and regulations for the government of the market, and for the internal government of said town generally, as they may deem expedient, not inconsistent with the provisions contained in this act, or the constitution of this state or of the United States ; and they are hereby empowered to lay such fine or fines, not exceeding fifteen dollars, for a breach or breaches of said by-law or laws, rules and regulations aforesaid, as they shall deem proper ; and all fines by them imposed, together with such as are pointed out in the provisions of this act, shall be sued for in the name of the board of trustees for the town of Frankfort, under their direction, or the direction of some person appointed for that purpose ; and the money recovered thereby, shall be applied to such purposes, for the benefit of said town, as they shall deem expedient.

To commence.

This act shall commence and be in force from the passage thereof.

## CHAPTER XII.

*An ACT to amend an act entitled " an act to reduce into one the several acts for the Conveyance and Division of Lands."*

Approved December 16, 1802.

*Vide Vol. I, Chap. 50, and the Notes.*

Commissioners  
appointed to  
convey lands.

SECTION 1. *BE it enacted by the general assembly,* That the three commissioners appointed by the county court where the land lies, agreeable to the first section of the said act, shall have full power to convey by deeds, as well the title of all the heirs and representatives of the decedant above the age of twenty-one years, as the infant representatives, which shall be valid ; provided no fraud has been practised in obtaining the same, any law to the contrary notwithstanding ; provided notice of the application for such conveyance be given to the party or parties concerned, or be advertised twice, at least three months prior to such application, in one of the newspapers of this state ; and provided also, that if any lawful

Notice to be  
given, and for  
what.

objection be made, that may be thought by the court as sufficient, by any heir, devisee, or representative of the person deceased, or their lawful agents, to such conveyance, it shall not take place.

1802.

Sec. 2. *And be it further enacted*, That persons having claims to lands in this commonwealth, undivided, as locators, or by bond or other instrument of writing, as well residents as non-residents, *feme coverts* or infants, may have the same divided by any two of the six commissioners appointed by the court, agreeable to the said recited act; and such commissioners shall convey to the person or persons having the equitable claim, the part to which they may be entitled, to be recorded in the clerk's office, in the county where the land shall lie, together with the bond or instrument of writing, agreeable to which the division was made, to be recorded with the deed, which deed of conveyance shall effectually vest the legal title in such person: *Provided*, that if at any time hereafter, it shall appear that there was any fraud in the contract, division, or manner of obtaining the same, that so much of the proceedings as are necessary to do justice between the parties, may be set aside in a court of equity.

How lands held by residents and non-residents may be divided.

Sec. 3. *And be it further enacted*, Where any person or persons, their heirs or assigns, claim land, as locators, or by bond or other instrument of writing, may institute a suit in a court of equity, having jurisdiction in such cases, and where the party having died and the legal title descended to their heirs, the complainant may proceed to obtain a decree for the land, though the particular names of the heirs be unknown, and not particularly named in the suit, and though they may be residents of this commonwealth or not; but in such cases it shall be advertised eight weeks in one of the gazettes of this state, requiring such heirs or representatives to appear and make their defence; and when a final decree is entered up, the court entering such decree shall appoint one or more commissioners to convey the title of the land thus decreed to the complainant; and in cases where suits in chancery have heretofore been entered for land, the same course of proceedings may be had as aforesaid; and in all cases where a decree hath been entered up against the defendant or defendants, the court shall appoint one or more commissioners to convey the land ac-

How suits in chancery may be brought against heirs, &c.

Commissioners to convey lands pursuant to decrees.

1802. cordingly: *Provided, however*, if at any time hereafter  
 it shall appear there was any fraud in the contract, or in  
 obtaining the title by this act, so much of the proceedings  
 as are necessary to do justice to the party, may be set  
 aside in a court of equity.

Rules as to amendments in chancery. Sec. 4. *And be it further enacted*, That the complainant in chancery may amend his bill any time before answer filed, and the defendant may amend his answer any time before replication, and commission taken without application to the court for that purpose, provided no delay is occasioned thereby.

To commence. This act shall be in force from and after the passage thereof.

### CHAPTER XIII.

#### *An ACT for establishing Inspections of Cotton.*

Approved December 16, 1802.

Preamble. WHEREAS it appears that great advantages will arise to this state from the cultivation and exportation of cotton; and that it is necessary the same should be inspected before exportation: therefore,

Owners of cotton presses appointed inspectors of cotton. Sec. 1. *Be it enacted by the general assembly*, That every owner of a cotton press within this commonwealth, shall, before he or she shall attempt to press, pack or bale any such cotton for exportation, apply to the county court of their county to obtain a license for that purpose; and the county court, if they shall be of opinion that the person or persons applying, is or are qualified for that business, may grant a license, taking at the same time a bond with good security to the governor for the time being, in the penalty of one thousand dollars, conditioned for the faithful and due execution of the duties required by law; and the said owner or owners of cotton presses, having thus given bond and security, and obtained license as aforesaid, shall be inspectors of cotton; and shall and are hereby required to inspect all cotton brought to their respective presses to be packed and baled for exportation; and after the same shall be well packed, prized and baled, shall mark, or cause to be marked, on each bale, the quantity of cotton contained therein, and the quality, whether first or second rate, the name of the state, county, and initials of his own name, or the name of his cotton press or cot-

Their duty.

ton presses, if distinguished by any particular name ; and each inspector shall be allowed for every bale, where the said owner furnishes materials for baling, seventy-five cents, and twenty-five cents for inspecting the cotton put into each bale, to be paid by the owner of the cotton ; and each bale shall not in length be less than four feet, nor less than twenty inches in breadth, and twenty inches in thickness.

1802.

Allowance.

Size of the bales.

Sec. 2. Every inspector or owner of a cotton press or cotton presses, who receives cotton, shall give a receipt for the quantity and quality received by him or them, and shall be liable for damage or loss sustained therein by the owners for his neglect, by an action on the case, in any court of record having cognizance of the same. When such owner or inspector shall mark any bale of cotton contrary to the intent and meaning of this act, such owner or inspector, for every bale so improperly marked, shall forfeit and pay the sum of one hundred dollars, on conviction thereof, in any court of record having jurisdiction of the same, and moreover be liable to the party aggrieved for damages.

Further duty of inspectors.

Liable to damages for neglect.

And penalties.

Sec. 3. Any person who shall be convicted of counterfeiting the marks or brands of any inspector or owners of a cotton press or cotton presses on any bale of cotton, by the presentment of a grand jury or indictment, shall forfeit and pay two hundred dollars for every offence, to be recovered with costs in any court of record having cognizance of the same.

Counterfeiters of marks, how punished.

Sec. 4. Every inspector or owner of a cotton press or cotton presses, shall be entitled to receive for storage for every bale of cotton for the first month, twelve cents five mills, and for every month thereafter six cents, to be paid by the person, on delivering, who may receive the same.

Rates of storage.

This act shall commence and be in force from the passage thereof.

To commence.


#### CHAPTER XIV.

*An ACT for opening a Road from Greensburgh to the Tennessee State line, and for other purposes.*

Approved December 16, 1802.

WHEREAS it is represented to the present general assembly, that it would be of public utility to open a

Preamble.

1802.  road from Greensburgh, in Kentucky, to the line of the Tennessee state, in a direction to Nashville : therefore,
- Commissioners appointed, and their powers.** Sec. 1. *Be it enacted*, That Robert Allen, Nicholas Burks, and Haydon Trigg, gentlemen, or a majority of them, be, and they are hereby appointed and authorised to view and mark out the nearest, best, and most convenient way for said road, and make report in writing to the county court of each county through which the same may be viewed and marked as aforesaid : and the county courts of each county shall appoint surveyors, allot hands, and cause the said road to be cut out, under the same rules and regulations as are provided in other cases.
- Powers of the viewers.** Sec. 2. *And be it further enacted*, That the viewers shall have power to employ one or more markers or chain-men, if necessary, to assist them in the execution of this act ; and the viewers aforesaid shall, for their services, receive the sum of nine shillings per day ; and the markers or chain-men, the sum of one dollar per day, for the time engaged in the service aforesaid.
- Subscriptions to be opened, and for what.** Sec. 3. *And be it further enacted*, That John Em- merson, James Allin, and John Gorin, be appointed commissioners, who, or any one or more of them, are hereby authorised to raise a sufficient sum by subscrip- tion, for the purpose of paying the viewers and others employed by them : and when they, or a majority of them, shall receive satisfactory information that the viewers and others have performed the services required by this act, they shall pay each of them in proportion to the service they may have severally performed : and the commissioners shall apply the balance of the money so received (if any) to the further improvement of the road.
- How to be re- covered.** Sec. 4. *And be it further enacted*, That the com- missioners shall have power to recover, before any tri- bunal of competent jurisdiction, any sum or sums of money subscribed, from any subscriber who may fail to pay the same : and in case a sufficient sum of money for defraying the expences incurred under this act, shall not be raised by subscription, the county court of each county through which the said road shall be conducted, shall, at the laying the next levy, have so much levied as will pay the said expence, each county levying a pro- portion of the same, equal to the distance of the road in
- Counties to le- vy money.**

## XI. YEAR OF THE COMMONWEALTH.

22

such county, which the viewers are hereby directed to report in their return to the several counties.

1802.

Sec. 5. *And be it further enacted*, That Matthew Walton, Mordecai Lincoln, and William Caldwell, or any two, be appointed to view the nearest, best, and most convenient way for a road from Springfield, in Washington county, to meet the road from Frankfort to that place, at the county line, and make report thereof in writing to the county court of said county: and the said court are hereby directed immediately to appoint surveyors, and cause the said road to be cut out as in other cases; and to levy so much money at the laying the next county levy, as will be sufficient to pay the viewers aforesaid, and markers and chain-men employed by them, so much per day as is allowed the viewers, chain-men and markers of the road to be cut out from Greensburgh to the Tennessee state line.

Other commis-  
sioners appoint-  
ed, & for what-

This act shall commence and be in force from the passage thereof. To commence

### CHAPTER XV.

*An ACT to amend an act entitled "an act for establishing sundry Inspections of Flour, Hemp, and Tobacco."*

Approved December 16, 1802.

*Vide* Vol. I, Chap. 58, and the Notes.

SECTION 1. *BE it enacted by the general assembly*, That an inspection of flour, hemp and tobacco shall be established in the county of Cumberland, on the lands of Ephraim Dickins, to be called and known by the name of Dickins's; also an inspection of flour, hemp and tobacco, in the county of Adair, on Cumberland river, on the lands of Nathaniel Buckhannon, to be called and known by the name of Buckhannon's; also an inspection of flour, hemp and tobacco, in the county of Gallatin, on the lands of Jeremiah Gullion, on the south side of the Kentucky river, opposite the mouth of Eagle creek, to be called and known by the name of Gullion's; also an inspection of flour, hemp and tobacco, at the mouth of Indian creek, in the county of Wayne, on the lands of William Jackson, to be called and known by the name of Jackson's; also an inspection of flour, hemp and tobacco, in the county of Wayne, on Cumberland river, on the

Inspections estab-

Dickins's,

Buckhannon's,

Gullion's,

Jackson's,

1802. lands of James and Thomas Montgomery, to be called  
 and known by the name of Montgomery's; also an in-  
 Montgomery's, spection of flour, hemp and tobacco, in the county of Pu-  
 laski, on the lands of Samuel Newell, on the north side  
 of Cumberland river, to be called and known by the  
 Newmarket, name of Newmarket; also an inspection of flour, hemp  
 and tobacco, in the county of Livingston, on the Ohio  
 river, on the lands of James Lusk, to be called and known  
 by the name of Lusk's; also an inspection of flour,  
 Lusk's, hemp and tobacco, in the county of Muhlenberg, on Pond  
 river, on the lands of Eppes Littlepage, to be called and  
 Pond river, known by the name of Pond River; also an inspection of  
 flour, hemp and tobacco, in the county of Cumberland,  
 on the south side of Cumberland river, near the mouth  
 of Willis's creek, on the lands of John Robinson, to be  
 Robinson's, called and known by the name of Robinson's; also an  
 inspection of flour, hemp and tobacco, in the county of  
 Cumberland, on the south side of Cumberland river,  
 about one mile above M'Farland's creek, on the lands  
 of Joshua Embree, to be called and known by the name  
 of Embree's.

Sec. 2. *And be it further enacted*, That in lieu of  
 Allowance to the former allowance to the inspectors of flour, there  
 inspectors of shall be allowed three cents for each barrel of flour in-  
 flour. spected in this state, and no more.

To commence. This act shall commence and be in force from and  
 after the passage thereof.

#### CHAPTER XVI.

*An ACT to amend an act entitled "an act to reduce into  
 one the several acts respecting Slaves, Free Negroes,  
 Mulattoes, and Indians."*

Approved December 16, 1802.

*Vide* Vol. I, Chap. 44, and the Notes.

SECTION 1. *BE it enacted by the general assembly*,  
 That if any person, whether the owner or hirer of a  
 slave, shall permit his or her slave to go at large and hire  
 himself or herself out, such owner or hirer shall forfeit  
 ten pounds, to be applied towards lessening the county  
 levy where such slave shall be found going at large, and  
 hiring himself or herself as aforesaid, to be recovered by  
 action of debt or information, in any court of record  
 within this commonwealth, having competent jurisdic-



## XI. YEAR OF THE COMMONWEALTH.

25

tion ; and if after conviction such slave shall be so found going at large, and hiring himself or herself, the owner or hirer, as the case may be, shall again be liable to the like penalty, to be recovered and applied as aforesaid ; and so often, after conviction, as such slave shall be found going at large and hiring himself or herself : *Provided always*, that if the owner or hirer aforesaid, shall not have a sufficiency of property to discharge the penalty aforesaid, such slave shall be liable to be sold under execution therefor.

1802.

Sec. 2. *And be it further enacted*, That the fifteenth and sixteenth sections of the act entitled an act to reduce into one the several acts respecting slaves, free negroes, mulattoes, and Indians," shall be, and the same are hereby repealed.

This act shall commence and be in force from and after the passage thereof.

## CHAPTER XVII.

*An ACT to Incorporate the Kentucky Insurance Company.*

Approved December 16, 1802.

SECTION 1. *BE it enacted by the general assembly*, That those persons who are already shareholders of the Kentucky insurance company, together with those who shall hereafter become shareholders in manner hereinafter directed, shall be, and are hereby created and made a corporation and body politic, by the name, style and title of "The President and Directors of the Kentucky Insurance Company ;" and shall so continue until the first day of January, in the year 1818 ; and by that name are hereby made able and capable in law to have, purchase, receive, possess, enjoy and retain to them and their successors, lands, rents, tenements, hereditaments, goods, chattels and effects, of what kind, nature and quality soever, to an amount not exceeding, in the whole, one hundred and fifty thousand dollars ; and the same to sell, grant, demise, alien, or dispose of ; to sue and be sued, plead and be impleaded, answer and be answered, defend and be defended, in courts of record, or any other place whatsoever ; and also to make, have, and use a common seal, and the same to break,

Company  
incorporated.

Its name & con-  
tinuance.

Powers.

Limitation of  
stock.

To have a seal

1802. <sup>Established by laws.</sup> alter, and renew at their pleasure; and also to ordain, establish, and put in execution, such by-laws, ordinances, and regulations, as shall seem necessary and convenient for the government of said corporation, and which are not contrary to law; and generally to do and execute all and singular the acts, matters and things which to them it shall or may appertain to do; subject, nevertheless, to the rules, regulations, restrictions, limitations and provisions hereinafter prescribed and declared.

<sup>Shares, by whom to be subscribed, and how many.</sup> Sec. 2. It shall be lawful for any person, copartnership, or body politic, to subscribe for such or so many shares as he, she or they shall think fit, not exceeding ten, until the number subscribed, shall, with those already subscribed, amount to the number of five hundred shares; reserving, however, a right to the president and directors, with the assent of a majority of the shareholders, to increase the said number of shares to one thousand.

<sup>Amount of each share, and how payable.</sup> Sec. 3. Each of the shares shall be one hundred dollars, payable in gold or silver, or such public securities as the president and directors of the company, with the assent of a majority of the shareholders, shall choose to receive, in five equal payments, to wit: one fifth part, or twenty dollars, at the time of subscribing; one fifth part in three months from the time of subscribing; one fifth part in six months from the time of subscribing; one fifth part in nine months from the time of subscribing; and the other fifth part in twelve months from the time of subscribing. In case any shareholder shall fail to pay any instalment within two months after it shall become due, what he shall have paid shall be forfeited, and his share shall be publicly sold, under such rules as the said corporation shall provide; and out of the amount of sale, the money due to the company shall be first paid, and if there is any excess, it shall be paid to such delinquent; and in case such share shall sell for less than the sum due to the company, the deficiency shall be recovered of the delinquent shareholder by suit.

<sup>Subscriptions, by whom to be received.</sup> Sec. 4. The subscriptions shall be received by the present president and directors of the Kentucky insurance company, or such officer or officers as they shall appoint to receive the same, until the first meeting of the shareholders shall be held under this act, a majority of whom shall direct by whom they shall be received.

## XI. YEAR OF THE COMMONWEALTH.

27

Sec. 5. The shareholders of the company, or a majority of those present, shall annually elect a president and four directors, who shall continue in office one year from the time of election.

1802.

President and directors to be elected.

Sec. 6. The said shareholders shall meet for the purpose of electing the first president and directors under this act, at their office in Lexington, on the first day of April next, and on the same day in every year thereafter, at such place as the president and directors then in office shall appoint, of which appointment four weeks notice shall be given in some Kentucky newspaper: and in case it should at any time happen that an election of president and directors should not be made upon any day when pursuant to this act it ought to have been made, the said corporation shall not for that cause be deemed to be dissolved; but it shall be lawful to appoint another day, in such manner as shall have been regulated by the laws and ordinances of the said corporation; and the former president and directors shall continue in office until such election is made: and in case of the death, resignation or removal of a president or director by the shareholders, his place may be filled up by a new election for the remainder of the year, in such manner as shall be directed by the laws and ordinances of the corporation.

When, and by whom.

Sec. 7. The president and directors for the time being, shall have power to appoint such officers, clerks or servants under them, as shall be necessary for executing the business of the said corporation, and to allow them such compensation for their services respectively, as shall be reasonable, and to require security for the discharge of their respective functions and trusts; and shall be capable of exercising such other powers and authorities, for the well governing and ordering the affairs of the said corporation, as shall be described, fixed and determined by the laws, regulations and ordinances of the same.

Officers, clerks, &c. by whom to be appointed.

Sec. 8. The president and directors shall at any time have it in their power to call a meeting of the shareholders; and the president and any two directors shall be sufficient to form a board, or in the absence of the president, three directors shall form a board, appointing one of themselves president *pro tem.*

Powers of the president & directors, to call meetings of the shareholders.

1802. **Sec. 9.** The shares in the said company shall be transferable under such regulations as shall be provided by the by-laws and ordinances of the said corporation.

Shares transferable.

**Sec. 10.** The president and directors shall receive or decline the risks offered to them, sign policies, receive premiums, and transact the whole business of the company.

Farther powers of the president and directors.

**Sec. 11.** Within twenty-four hours after an application for insurance, the risk shall be taken or rejected; if taken, a policy shall be made out at the expence of the insured, which shall be delivered upon the premium being paid in hand, or such bond, note or bill given for the payment thereof, and upon such credit as the said president and directors shall approve of: and the risk shall commence agreeably to the purport of the said policy.

Within what time the risk shall be taken.

The manner of applying for insurance.

**Sec. 12.** Applications for insurance shall be made in writing, accompanied by such certificates of the goodness of the boat or vessel, their being well found with oars, cables, sternfast, canoe or skiff, the name of the boat or vessel, and the captain, the number of hands, the property to be shipped, the time of their departure, and place of destination, and such other information as the president and directors may deem necessary.

Protests in cases of loss.

**Sec. 13.** In case of loss, the master and two more of the crew, if so many shall survive the loss and be able to attend, shall go to the most convenient notary public, or magistrate, and enter their protest, touching the particulars as to the loss of the cargo, and boat or vessel, to which protest they shall swear or affirm; which protest, or an attested copy thereof, shall be delivered to the president and directors, with such other necessary proof of the property having been on board said boat or vessel at the time the accident happened, as also a bill of lading and manifest of the cargo and value; and such loss shall be paid to the insured within thirty days after such necessary proof having been made, deducting from the amount insured two and a half per cent. abatement, which shall go to the defraying the necessary expences of the company.

Payments to be made.

What deductions on premiums returned.

**Sec. 14.** And in case of application for return of premium, where no risk has commenced, the premium being paid and the policy delivered, a deduction of two and a half per cent. on such premium, shall be retained for the uses before mentioned.

## XL. YEAR OF THE COMMONWEALTH.

29

Sec. 15. The said insurance company shall not be liable for, or pay any partial loss or average, unless general; nor any general average loss, unless it amounts to five per cent. on the cargo, nor for any barratry of the master or hands, nor more than five sixths of the value of the cargo on board any boat or vessel; and the insurance shall cease on any boat, or vessel, and cargo, on their arrival at the destined port, unless otherwise agreed on, in which case such agreement shall be expressed in the policy.

1802.

In what cases  
the company are  
liable for losses.

Sec. 16. If any boat or vessel shall be insured by the said company, destined to New-Orleans, or any port on the Mississippi or Ohio rivers, and no account shall be had either of her or any of her crew, within twelve months after her departure, the amount insured shall be paid, subject to the abatement upon the presumption the boat or vessel and crew are totally lost.

What length of  
time shall raise  
a presumption  
of the loss of a  
boat, &c. on the  
Mississippi, &c.

Sec. 17. The shareholders of the said insurance company, shall have a general meeting in the town of Lexington, at the office of the company, on the first day of January, the first day of April, the first day of July, and the first day of October, (unless those days happen on Sunday, in which case the meeting shall be on the succeeding day) in each year, where, and in all meetings of the shareholders, the president shall preside; or in case there is no president, the president *pro tem.*; who, with whatever number of shareholders may appear, shall constitute a meeting, with full power to adjourn from day to day, if necessary: each share shall be entitled to a vote by the *bona fide* owner, the attorney in fact, or executor or administrator of such owner.

General meet-  
ings, when and  
where held.

Sec. 18. At each January meeting, the president and directors shall lay before the shareholders, the state of the accounts, the risks undetermined, and such other information as they shall think necessary; and such a dividend of the profits shall be made, as the president and directors shall think advisable, but in no case shall the capital stock be diminished by such dividend until the expiration of this act.

When and how  
dividends shall  
be made.

Sec. 19. None but a shareholder and a citizen of this commonwealth, shall be eligible as a president or director, and no compensation shall be made to the president or directors, unless allowed by a majority of the shareholders at some general meeting.

Who may be a  
president or di-  
rector, and their  
compensation.

1802.

They may be moved against for non-payment.

Upon giving 10 days notice.

Notes, &c. how negotiable.

Debts, in what courts recoverable.

Judgment to be given the first term.

Sec. 20. Where any thing is due to any person or persons, for amount insured, for general average loss, or return of premium, and the same shall not be paid by the said president and directors, within thirty days, as before mentioned, it shall be lawful for the general court, or district court, held in Lexington, who are hereby invested with jurisdiction of the said causes, to give judgment, on motion, for the amount of the sum due, against the president and directors of the said company, with interest from the end of the said thirty days to the time of payment, and costs: *Provided always*, that ten days notice in writing, that such motion would be made, shall have been left at the office of the said company in Lexington. And the like remedy shall be had against the said president and directors, upon every undertaking they shall make in behalf of the insurance company, whether by policy, bond, bill obligatory, note, or otherwise; and every bond, bill obligatory, or note in writing, given by the said president and directors in behalf of the said insurance company, shall be assignable by endorsement thereon, in like manner, and with the like effect as foreign bills of exchange now are; and such of the notes as are payable to bearer, shall be negotiable and assignable by delivery only.

Sec. 21. The same summary remedy is hereby given against all persons who shall hereafter be bound by bond, bill obligatory, or note in writing, or assignment of the same, to the president and directors of the Kentucky insurance company; and it shall be lawful for the general court, or the district court in which the party bound shall reside, and the said courts are hereby empowered to give judgment, on motion, for the amount of any such bond, bill obligatory, or note in writing, against the obligor, maker, or assignor, as the case may be: *Provided always*, that ten days notice in writing shall be given by the said president and directors, to the person or persons against whom the motion is to be made, of such motion, if to be found, if not, a copy thereof shall be left with some white person above the age of twenty-one, at his, her, or their usual place of abode.

Sec. 22. On all motions judgment shall be given at the first court, unless for good cause the court shall continue it to the second, beyond which it shall on no account be continued.

Sec. 23. Where the defendant requires it, a jury shall be summoned *instantly* to enquire into any question of fact, which either party shall state under the direction of the court, and which is not agreed to ; and upon the finding of such fact or facts, or the agreement to them, the court shall give judgment according to the very right of the case, without regard to form, and without pleadings in writing.

1802.  
Jury, in what  
cases empan-  
nelled.

Sec. 24. If the said corporation, or any person or persons for, or to the use of the same, shall deal or trade in buying or selling any goods, wares, merchandize, or commodities whatsoever, contrary to the provisions of this act, all and every person and persons by whom any order or direction for so dealing or trading shall have been given, and all and every person and persons who shall have been concerned as parties or agents therein, shall forfeit and lose treble the value of the goods, wares, merchandize, and commodities, in which such dealing and trade shall have been, one half to the informer, and the other half to the use of the commonwealth, to be recovered with costs of suit: *Provided, however,* that nothing in this act contained shall be so construed as to prevent the said corporation from dealing in exchange, or of lending their money at interest, not exceeding six per centum per annum, or of selling such goods as shall be really and truly pledged to them for money lent and not redeemed in due time, or of disposing of such property as shall have been abandoned to them by the insured after an average loss shall have been suffered on the same, or from aiding and assisting individuals engaged in the commerce of this country, agreeably to the rules, regulations, by-laws and ordinances of the said corporation, which are not contrary to the constitution and laws of this state and of the United States.

Penalty for  
buying or sell-  
ing goods, &c.

*Provido.*

Sec. 25. No other company of insurance shall by any law of this commonwealth be established during the continuance of the corporation hereby erected.

No other insu-  
rance company  
to be incorpo-  
rated.

This act shall commence and be in force from and after the passage thereof.

To commence.

1802.

## CHAPTER XVIII.

*An ACT to amend the several acts concerning the Navigation of the South and Stoner's Forks of Licking.*

Approved December 16, 1802.

Preamble.

WHEREAS it is represented to the general assembly, by the good people of the counties of Bourbon and Harrison, that the several acts of assembly concerning the navigation of the South and Stoner's forks of Licking, and the act of assembly allowing mills to be built thereon under certain restrictions and regulations, ought to be amended : therefore,

Slopes to be erected.

Sec. 1. *Be it enacted by the general assembly,* That the owner or owners of every mill which has been heretofore, or shall be hereafter erected or built upon the South and Stoner's forks of Licking river, shall erect a slope in the dam (having reference to the bed of the stream, both above and below the dam) of the following dimensions, to wit: the level of the upper end of the slope, shall be at least two feet lower than the rest of the dam, on each side thereof; and the ends of the timbers of the dam, on each side of the slope, shall be bevelled or sloped, so as to prevent boats from hanging upon the corners or ends of the dam. The slope shall be at least forty feet wide; and the apron or slant of the slope below the dam, shall be extended eight feet in length, for every foot the dam shall or may be raised in perpendicular height, measuring to the level of the upper end of the slope. The apron or slant of the slope, shall be made of strong timbers, closely joined together, to prevent the water from running through; and on each side of the apron or slant of the slope, there shall be fixed a strong piece of timber, fifteen feet, adjoining to the dam, raised two feet above the apron of the slope, to prevent the water from flying off at the sides. There shall be a sign or index suspended over the centre of the slope, for a guide for boat-men.

Further time given to erect slopes.

Sec. 2. The further time of eleven months from the passage of this act, shall be allowed the owners of mills on the South and Stoner's forks of Licking, to erect and complete their slopes agreeably to the first section of this act; and they shall not be obliged to build locks in their dams until the further order of the legislature; nor shall they be hereafter sued or vexed, until such fur-



ther order of the legislature be made, for not having heretofore erected, or for not hereafter erecting locks, any law to the contrary notwithstanding. 1802.

Sec. 3. If the owner or owners of any mill heretofore built on the South and Stoner's forks of Licking, shall refuse or neglect to erect a slope in his, her or their mill-dam, according to the directions of the first section, and within the time prescribed by the second section of this act, he, she or they so refusing or neglecting, shall forfeit and pay the sum of one hundred and fifty pounds, to be recovered by information or action of debt in the general court, to the use of the commonwealth. Penalty for failure.

Sec. 4. It shall be the duty of every such owner or owners of a mill upon the South and Stoner's forks of Licking, to keep his, her or their slope constantly in good repair, to clear away all drift-wood lodged against or about the slope, and also to cut down all trees standing in the bed or channel of the river, and such leaning trees as might injure the passage of boats, and also to burn or remove all drift-wood for the distance of at least two hundred yards below the mill-dam; and for failing to comply with either of the provisions of this section, he, she or they shall, for every twenty-four hours of such failure, forfeit and pay the sum of ten dollars, to the person suing for the same. Slopes to be kept in repair, &c.

Sec. 5. The owner or owners of every mill which may be hereafter built upon the said streams, shall erect a slope in his, her or their dam, agreeable to the directions of this act, to be completed with the dam; and shall in all respects conform to the provisions, and be subject to the penalties herein mentioned, in like manner as the owners of mills heretofore built. To be completed with the dams.

Sec. 6. The owner or owners of any such mill as has been heretofore built, or may be hereafter built upon the said South and Stoner's forks, besides the penalties and forfeitures afore mentioned in this act, shall, for failing to comply with all or any of the directions thereof, be subject to an action upon the case for damages, at the suit of the party who shall or may be injured by such failure. Owners liable to action of the party injured.

Sec. 7. *And be it further enacted,* That should it appear to the general assembly, at any time hereafter, that the slopes, as described in this act, are insufficient for the safe passage of boats, it shall be in the power of the Power reserved to amend the act.

1802.

legislature so to amend this act as to promote that purpose.

To commence.

This act shall commence and be in force from the passage thereof.

## CHAPTER XIX.

*An ACT to amend an act entitled "an act to reduce into one the several acts for the better regulating and collecting certain Officers' Fees."*

Approved December 17, 1802.

Preamble.

WHEREAS it is represented to the present general assembly, that no provision is made for the payment of certain services directed by law to be performed, also for property directed by law in certain cases to be impressed: for remedy whereof,

Certain allowances to be made,

To the sheriff,

For impressed horses,

For boats,

To the jailor.

*BE it enacted by the general assembly,* That the following allowances, to be paid out of the public treasury, shall hereafter be made, to wit: to the sheriff, for summoning and empannelling a jury for the trial of any criminal, the sum of one dollar and fifty cents: to every person from whom a horse may be impressed for the purpose of conveying any criminal from one county to any other county, for each day such horse shall be kept in said service, the sum of twenty-five cents: to every person from whom any boat shall be impressed for the purpose of conveying any criminal, and guard attending thereon, across any water course, the sum allowed by law for any such ferriage in other cases: to the jailor for putting a prisoner in irons, exclusive of the price of such irons, where they have not been previously paid for by the state, the sum of twenty-five cents.

## CHAPTER XX.

*An ACT to amend an act entitled "an act providing for the redemption of certain Certificates."*

Approved December 17, 1802.

Auditor to issue certificates in exchange for those issued by the commissioners.

*BE it enacted by the general assembly,* That the auditor is hereby empowered and directed to issue audited certificates for all certificates granted by commissioners appointed by any law of the Virginia legislature, for military services rendered for defence of the frontiers of this

## XI. YEAR OF THE COMMONWEALTH.

35

state, or provisions or other articles furnished for the service aforesaid, subsequent to the year 1785, which may be found recorded in the commissioners' books now in the auditor's office, in like manner, and under the same regulations as are directed by an act entitled "an act for the redemption of certain certificates, and for other purposes," passed the 21st day of December, 1799; and such certificates shall be received in payment for lands granted to settlers on the south side of Green river, as by the said recited act is directed.

1802.

How receivable.

This act shall commence and be in force from its passage. To commence.

### CHAPTER XXI.

*An ACT authorising the Trustees of Lexington to levy and collect Money for certain purposes.*

Approved December 18, 1802.

WHEREAS it is represented to this general assembly, that the sums of money authorised by law to be assessed and collected by the trustees of Lexington, on the titheables and property, real and personal, within the said town and its limits, for the purposes of repairing the streets and highways within the said town and limits, and for keeping a watch, erecting watch-houses, and supporting lamps, are insufficient for those purposes: therefore,

Preamble.

Sec. 1. *Be it enacted by the general assembly, That* it shall and may be lawful for the trustees of the town of Lexington, annually, to levy and collect from the titheables, and property, real and personal, within the town and limits aforesaid, the sum of one hundred and fifty pounds, in addition to the respective sums they are now by law authorised to levy and collect, and under the same rules and regulations; to be applied in the following manner, that is to say, fifty pounds to be applied to the repairing the streets and highways within the said town and limits, and one hundred pounds to be applied to the paying a watch, erecting watch-houses, and erecting and supporting lamps, under the direction and superintendence of the trustees of said town.

Trustees to levy money on titheables &c.

How to be applied.

Sec. 2. *And be it further enacted, That* the titheables within the said town and limits, shall be exempted from working on roads: and it shall be the duty of the afore-

Titheables exempted from working on the roads.

1802.

*Enorm*  
*the*  
*Repealing*  
*clause*  
*shall*  
*To commence*

said trustees to keep all the roads within the said town and limits, in good repair; and in case of failure, the said trustees shall be liable to the same penalties as surveyors or overseers of roads are for similar failures, to be recovered from their chairman in the same manner.

Sec. 3. All acts or parts of acts coming within the purview of this act, shall be, and the same are hereby repealed.

This act shall commence and be in force from and after the passage thereof.

## CHAPTER XXII.

*An ACT providing for the collection of Surveyors' Fees in certain cases, and appointing Trustees to the Summerset Academy.*

Approved December 18, 1802.

Preamble.

WHEREAS the surveyors of sundry counties in this commonwealth have been called upon by the trustees of the seminaries of learning to locate and survey lands granted to them by virtue of the several acts of the general assembly for vesting lands in trustees for the use of seminaries of learning within this state, and the said surveyors having performed the services accordingly:

Surveyors may  
 recover their  
 fees.

Sec. 1. *BE it therefore enacted by the general assembly,* That if any surveyor of any county within this commonwealth hath actually done and performed any services in the execution of his office as surveyor, for any seminary of learning within this commonwealth, at the request of the trustees of the said seminary, or at the request of any person legally acting on their behalf; if the said trustees have not directly or indirectly paid or caused to be paid to such surveyor the fees due for his services as aforesaid, it shall and may be, and is hereby declared to be lawful for the said surveyor to bring suit against the said trustees for the full amount of his fees; and the said trustees shall be liable to answer the demand of such surveyor, to the full amount of the sales of the one eighth part of the lands by law allowed to such trustees for the benefit of any seminary, or so much thereof as they have not otherwise legally appropriated, and no further.

Further time  
 given to locate

Sec. 2. *And be it further enacted,* That the further time of three years shall be, and it is hereby given to

the trustees of the several academies, as well as the county courts in the counties in which no trustees are appointed, to locate and survey their lands, and return plats and certificates of survey to the register's office; any law to the contrary notwithstanding.

1802.

and survey military lands.

Sec. 3. *And be it further enacted*, That William Fox, James Hardgrove, Robert Moderel, and Jesse Richardson, shall be, and are hereby constituted a body politic and incorporate, and shall be known by the name of "The Trustees of the Summerset Academy;" and the permanent seat of said academy shall be established within or near the limits of the town of Summerset, in the county of Pulaski: and the said trustees shall have perpetual succession, and a common seal; and shall be invested with all the powers and privileges that are enjoyed by the trustees of any academy or college within this commonwealth, not otherwise limited or directed.

Summerset academy incorporated.

This act shall commence and be in force from and after the passage thereof.

To commence.

## CHAPTER XXIII.

### *An ACT to establish Circuit Courts.*

Approved December 20, 1802.

*Vide, post*, Chaps. 43 and 504, of this Volume.

WHEREAS the present judiciary system is found to be inconvenient and expensive:

Preamble.

Sec. 1. *Be it therefore enacted by the general assembly*, That the present district courts and general court, shall be, and are hereby abolished, so soon as this act takes effect.

District & general courts abolished.

Sec. 2. *Be it further enacted*, That circuit courts shall be, and they are hereby established, and shall be held within the circuits hereafter mentioned, to wit: the counties of Montgomery and Floyd shall compose one circuit, the circuit court for said circuit shall be held at the court-house in the county of Montgomery: the counties of Bourbon and Nicholas shall compose one circuit, and the court thereof shall be held in the court-house of Bourbon county: the counties of Mason and Bracken shall compose one circuit, and the court thereof shall be held in the court-house of Mason county: the counties of Campbell, Pendleton and Boone shall compose one circuit, and the court thereof shall be held in

Circuit courts established.

Montgomery.

Bourbon.

Mason.

Campbell.

1802. the court-house of Campbell county: the counties of  
 Henry and Gallatin shall compose one circuit, and the  
 court thereof shall be held in the court-house of Henry  
 county: the counties of Ohio and Breckenridge shall  
 compose one circuit, and the court thereof shall be held  
 in the court-house of Ohio county: the counties of  
 Muhlenberg and Henderson shall compose one circuit,  
 and the courts for the same shall be held in the court-  
 house in the county of Muhlenberg: the counties of Pu-  
 laski and Wayne shall compose one circuit, and the court  
 thereof shall be held in the court-house of Pulaski coun-  
 ty: the counties of Lincoln and Knox shall compose  
 one circuit, and the court thereof shall be held in the  
 court-house of Lincoln county: every other county  
 within this commonwealth, shall each compose one cir-  
 cuit, and the court of each circuit shall be held at the  
 county court-house of the county composing such cir-  
 cuit.

How many terms, and their duration. Sec. 3. *And be it further enacted,* That each circuit shall hold three terms in every year, and shall sit six judicial days at each term, if necessary; except the circuit courts for the counties of Mason, Bourbon, Fayette, Nelson, and Logan, shall sit eighteen judicial days each term, if necessary; except the Logan circuit, which may sit twelve days, if necessary.

When held, in Madison, Lincoln, Garfield, Pulaski, Adair, Cumberland, Barren, Green, Mercer, Warren, Logan, Sec. 4. The Madison circuit shall be held on the first Monday in March, June and September in every year; the Lincoln circuit shall be held on the second Monday in March, June and September in every year; the Garfield circuit shall be held on the third Monday in March, June and September in every year: the Pulaski circuit shall be held on the fourth Monday in March, June and September in every year; the Adair circuit shall be held on the first Monday in February, May and September in every year; the Cumberland circuit shall be held on the second Monday in February, May and September in every year; the Barren circuit shall be held on the third Monday in February, May and September in every year; the Green circuit shall be held on the fourth Monday in February, May and September in every year; the Mercer circuit shall be held on the fourth Monday in February, May and August in every year; the Warren circuit shall be held on the first Monday in March, June and September in every year: the Logan cir-

# XI. YEAR OF THE COMMONWEALTH.

59

1802.  
 1802.  
 Muhlenberg,  
 Ohio,  
 Livingston,  
 Washington,  
 Nelson,  
 Hardin,  
 Bullitt,  
 Jefferson,  
 Shelby,  
 Henry,  
 Franklin,  
 Woodford,  
 Fayette,  
 Jessamine,  
 Clarke,  
 Montgomery,  
 Fleming,  
 Mason,  
 Bourbon,  
 Scott,  
 Harrison,  
 Campbell,  
 Christian.

cuit shall be held on the second Monday in March, June and September in every year; the Muhlenberg circuit shall be held on the third Monday in March, June and September in every year; the Ohio circuit court shall be held on the fourth Monday in March, June and September in every year; the Livingston circuit shall be held on the first Monday in February, May and September in every year; the Washington circuit shall be held on the first Monday in March, June and October in every year; the Nelson circuit shall be held on the second Monday in March, June and October in every year; the Hardin circuit shall be held on the third Monday in April, July and October in every year; the Bullitt circuit shall be held on the fourth Monday in March, June and October in every year; the Jefferson circuit shall be held on the first Monday in February, May and September in every year; the Shelby circuit shall be held on the second Monday in April, June and October in every year; the Henry circuit shall be held on the third Monday in April, June and October in every year; the Franklin circuit shall be held on the third Monday in April, July and October in every year; the Woodford circuit shall be held on the first Monday in March, June and September in every year; the Fayette circuit shall be held on the second Monday in March, June and September in every year; the Jessamine circuit shall be held on the third Monday in April, July and October in every year; the Clarke circuit shall be held on the first Monday in April, July and October in every year; the Montgomery circuit shall be held on the fourth Monday in April, July and October in every year; the Fleming circuit shall be held on the first Monday in March, June and September in every year; the Mason circuit shall be held on the second Monday in April, July and October in every year; the Bourbon circuit shall be held on the third Monday in February, May and August in every year; the Scott circuit shall be held on the second Monday in April, July and October in every year; the Harrison circuit shall be held on the first Monday in February, May and August in every year; the Campbell circuit shall be held on the third Monday in April, July and October in every year; the Christian circuit shall be held on the fourth Monday in March, June and September in every year.

*Edwards*

1802. *Sec. 5. And be it further enacted,* That the county courts of each county in which circuit courts are directed to be held by this act, shall be holden on the same Monday of every month on which circuit courts are directed to be held, except those months in which circuit courts are held.

*Sec. 6. And be it further enacted,* That the clerk of the general court, and each circuit court, shall make out his court docket within three days after the rule day next preceding each term.

*Sec. 7. And be it further enacted,* That the circuit courts established by this act shall have jurisdiction in all causes, matters and things at common law and in chancery, within their respective circuits, except in causes of less value than five pounds, or one thousand pounds of tobacco, and except so far as shall be otherwise directed by this act; and the said circuit courts within their respective circuits, shall have the same power, authority and jurisdiction which the district courts and quarter session courts are vested with; and the said circuit courts shall be governed by the same rules and regulations by which the said district and quarter session courts are now governed, so far as they are consistent and compatible, and where they are inconsistent, the said circuit courts shall be governed by the rules and regulations of the district courts.

*Sec. 8. And be it further enacted,* That each circuit court shall consist of one circuit judge and two assistant judges, which assistant judges shall be residents of the county in which the circuit court shall be held to which they shall be appointed. The circuit judge, or the two assistant judges, or the circuit judge and one assistant, shall be sufficient to constitute a court. When the circuit judge alone constitutes a court, he cannot proceed to the trial of criminals, whose punishment, if convicted, would be capital, or confinement in the jail and penitentiary; but the trial of such prisoner shall be continued over till the next term, unless the prisoner petition the court to proceed to trial.

*Sec. 9. Be it further enacted,* That where a criminal case is continued in consequence of there being but the circuit judge, and neither the two assistant judges nor the circuit judge and one assistant do attend at the next term, the prisoner shall be bailed as of right, and the



bail shall be according to his ability, and the degree of his offence. Where only the circuit judge attends, and the accused person petition to be tried, but the jury do not agree in their verdict, it is no bar to his being bailed, and if he attend on the first day of the succeeding term, and render himself according to his recognizance, and there be not a sufficient court on or before the third day, he shall be discharged.

1802.

Sec. 10. *And be it further enacted,* That before any circuit or assistant judge can act as such, he shall swear or affirm before some justice of the peace, that he will administer justice without respect of persons, and do equal right to the poor and the rich, and that he will faithfully and impartially discharge the duties of a circuit court judge, or assistant judge, (as the case may be) according to the best of his abilities and understanding, agreeable to the constitution and laws of this commonwealth; and a certificate of his oath or affirmation shall be recorded in the general court, or in the circuit court to which such circuit or assistant judge may be allotted or belong.

Judges to take an oath.

Sec. 11. *And be it further enacted,* That if neither a circuit judge nor the two assistant judges attend on the first day of any circuit court term, the court shall stand adjourned from day to day until a court is made, should that happen before four o'clock of the afternoon of the fourth day.

Provision when judges do not attend.

Sec. 12. *And be it further enacted,* That the sheriffs of the several counties in which circuit courts are held, shall summon grand jurors to attend the said courts in the same manner they are now directed to summon grand jurors to attend the district and quarter session courts; and the said sheriffs shall attend the circuit courts in the same manner they are now required to attend the quarter sessions.

Sheriffs to attend the courts, and their duty.

Sec. 13. *And be it further enacted,* That when any person, not being a slave, shall be charged before a justice of the peace with any criminal offence, in any county in which a circuit court shall be held, the punishment for which, in the opinion of such justice, would be capital, or confinement in the penitentiary house, the said justice shall take a recognizance of all material witnesses to appear before the county court of his county, to be held for the examination of such charge, and immedi-

How a criminal is to be apprehended.

How to be examined.

1802. *at*ely by his warrant commit such prisoner so charged to the jail of his county, and shall issue his warrant to the sheriff of his county, to summon the five senior justices of the said court, to meet at the court-house of the said county on a day to be fixed by the said justice, not less than five nor more than ten days after the date there-

*Examining court how constituted.* of, to hold a court for the examination of the fact; which justices, or any three of them, shall be sufficient to constitute a court. The court having met as afore-

*Power thereof, & proceedings therein.* said, shall consider whether the prisoner be discharged from further prosecution, or must be tried in the circuit court of the said county; if they are of opinion the prisoner ought to be tried in the circuit court of said county, they shall take the depositions of the witnesses, and bind such as they think proper by recognizance to give evidence against such criminal at his trial. If the court shall deem such prisoner bailable by law, they shall enter the opinion in their proceedings, and also the sum in which he and his securities or bail ought to be bound; and where they shall be of opinion that the prisoner is not bailable, or where they shall be of opinion the prisoner is bailable and such prisoner shall fail or refuse to give bail, in both cases the prisoner shall be remanded to the jail of the said county for trial in the circuit court, and until he shall be discharged by due course of law;

*Duty of clerks of examining courts.* and the clerks of the county courts shall immediately transmit to the commonwealth's attorney for the circuit, a copy of the depositions and proceedings on such trial.

*Number of circuit and assistant judges.* Sec. 14. *And be it further enacted,* That nine circuit judges shall be appointed and commissioned within this commonwealth, and two fit persons in each county in which circuit courts are directed to be held by this act, to be styled assistant judges of the circuit court to which they are appointed.

*General court, when, and by whom to be holden.* Sec. 15. *And be it further enacted,* That the circuit judges to be appointed by this act, shall hold a general court in the state-house in the town of Frankfort, on the first Monday in May and December in every year, and shall sit at each term fifteen days, if necessary. The said general court shall have the same power, authority and jurisdiction which the general court had previous to the passage of this act, and shall proceed to hear and determine all causes, matters and things depending in the general court at the time this act takes effect, according

*Jurisdiction thereof.*

to the rules and regulations by which the said court has been heretofore governed, and which shall be established by law.

1802.

Sec. 16. *And be it further enacted*, That questions of law, new or difficult, arising in any land cause, may be adjourned from any circuit to the general court, where they shall be decided on without delay.

How questions may be adjourned.

Sec. 17. *And be it further enacted*, That the clerks of the circuit courts shall have the same fees as those of the quarter session and county courts for similar services, and for other services the same as those of the present district courts, and shall be collected and accounted for in the same manner, and under the same penalties.

Clerks' fees, what.

Sec. 18. *Be it further enacted*, That the circuit judges shall, at each term of the general court, allot among themselves the circuit courts they shall severally attend; and the said judges shall be presiding judges of the circuit court in which they may respectively sit; which allotment shall be certified by the judges making it, and entered on the records of their circuits. Where the governor makes a temporary appointment of a judge, such judge shall take the place of him whose vacancy he fills.

Allotment among the judges, when and how made. Who are to be presiding judges.

Sec. 19. The said circuit courts shall be governed by the same rules respecting pleading sets-off, and giving them in evidence, as the quarter session courts now are. They shall have power to award injunctions, writs of *certiorari*, *ne exeat*, and *habeas corpus*; and any circuit judge may, in vacation, grant such writs to operate in any part of the commonwealth, and the two assistant judges of any circuit court shall have power, in vacation, to award any of those writs to operate within the circuit to which they belong.

Rules as to sets-off.

Injunctions &c. by whom to be granted.

Sec. 20. *And be it further enacted*, That the circuit judges to be appointed by this act, shall be allowed the sum of seven hundred and fifty dollars each, annually, payable quarterly, subject to the like deductions for non-attendance as the district judges now are; and the assistant judges to be appointed by this act, shall receive, as a compensation for their services, two dollars per day, to be certified and paid as the quarter session justices now are.

Salary of the judges.

Sec. 21. *And be it further enacted*, That in each county in which no circuit court is directed to be held by this act, the proceedings against persons charged with

Regulations as to prisoners in certain counties

1802.

offences, shall be as heretofore, and prisoners shall be removed from such county to the circuit court of the circuit of which such county makes a part, and venires and witnesses shall be summoned to attend such circuit court in the same manner and under the same rules and regulations as prisoners are now removed, and venires and witnesses are now summoned to the district courts.

Proceedings  
against slaves  
charged with  
criminal offen-  
ces.

Sec. 22. *And be it further enacted*, That the justice before whom a slave shall be charged with any crime, shall, if there appears to him just ground for the charge, commit such slave to the jail of his county, and issue his warrant to the sheriff of the county where the offence was committed, to summon the five senior justices of the county court of the county where the crime is alleged to have been committed, in the same manner, and to meet within the same time as is directed in the case of any free person charged with any crime in any county in which a circuit is directed to be held by this act, and also to summon a jury of the vicinage, no one of whom shall be master of such slave, or related to the master or prosecutor in any degree which would be a cause of challenge to a juryman in a trial between free persons, to appear at the same time and place for the trial of such slave. The justices so met, or any three of them, shall constitute a court of oyer and terminer for the trial of such slave, and shall have the same power and authority to give judgment and award execution, and in all respects to proceed in the same manner as the courts of quarter sessions are now authorised and directed to do in like cases.

Records, &c.  
of the district  
courts, to be  
lodged in the  
circuit courts.

Sec. 23. *Be it further enacted*, That the clerk of each district court within this commonwealth, after this act takes effect, shall, on demand, or within ten days at least thereafter, deliver to the clerk of the circuit court of the county in which such district court is now held, all the records and papers belonging to his office; except the papers and records belonging to the Danville district court, which the clerk thereof shall deliver to the clerk of the Lincoln circuit court, within the time aforesaid.

Records, &c.  
of the general  
court to be  
lodged with the  
clerk of the ge-  
neral court es-  
tablished by  
this act.

Sec. 24. *And be it further enacted*, That it shall be the duty of the clerk of the present general court, within ten days after the clerk of the general court erected by this act shall demand the same, to deliver all papers, records and things belonging to his office, to the clerk

of the general court erected by this act, under the penalty of one thousand dollars, recoverable by action of debt, in any court of record having jurisdiction thereof, to the use of the party suing for the same. And the clerk shall, in arranging the causes or questions depending in the general court and Franklin district court on his docket, give a preference to the causes or questions depending in the general court; and the general court shall have as full and complete jurisdiction in all causes, matters and things, criminal as well as civil, and also over all causes which may be adjourned or removed from any of the district courts.

1802.

Sec. 25. *And be it further enacted*, That the clerk of each quarter session court abolished by this act, shall, on demand, or within ten days at least thereafter, deliver to the clerk of the circuit court of the county in which such quarter session court is now held, all records, papers and things belonging to his said office.

Records, &c. of the quarter session courts to be lodged in the circuit courts.

Sec. 26. *And be it further enacted*, That if any clerk whose duty it is to deliver up papers, records, &c. shall fail or refuse so to do, upon the application of the clerk authorised to receive them, or within ten days thereafter, shall forfeit and pay the sum of one thousand dollars, to be recovered by action of debt or information in any court having jurisdiction thereof, to the use of the informer, or any person suing for the same.

Penalty on clerks for failing to deliver papers, &c.

Sec. 27. *And be it further enacted*, That every quarter session court which is now by law held in any county in which a circuit court is directed to be held by this act, shall be, and the same is hereby abolished, so soon as this act takes effect.

Certain quarter session courts abolished.

Sec. 28. *And be it further enacted*, That every writ, or other process of any description, which shall be issued returnable to the next May term of the present general court, or any rule day thereof, shall be returned to the third day of the first term of the general court, as constituted and established by this act, or to the first rule day thereof, as the case may be; and every such writ or process shall be as good and valid as if this act had not been passed: and all bail bonds and recognizances returnable to the present general court, shall be returned in the like manner and have the like force and validity as if this act had not been passed.

Provision as to process, &c. returnable to district and general courts.

Sec. 29. *And be it further enacted*, That any five of What number

1802. the circuit judges shall be sufficient to constitute a general court to do business; and when a sufficient number of judges do not attend on the first day of any term of the general court to constitute a court, the court shall stand adjourned from day to day until a court is made, provided that happen before the fifth day of the term.

of judges may constitute a general court.

Compensation to witnesses, veniremen, &c.

Sec. 30. *Be it further enacted*, That witnesses and venire men shall receive the same compensation for attending the circuit courts of the counties in which they may reside, which witnesses are now allowed for attending the courts of quarter sessions of counties in which such witnesses reside; and in all other cases witnesses shall receive the same allowances for attending the circuit courts as they are now allowed for attending the quarter session court.

Causes, how to be docketed in the circuit courts.

Sec. 31. *And be it further enacted*, That the clerk of each circuit court into whose hands the papers and records of any quarter session court are directed to be delivered by this act, shall docket the causes which may be depending therein at the time this act takes effect, in the order in which they stand on the dockets of such quarter session court; and where the same circuit court clerk shall receive also the papers and records of any district court, he shall observe the same rule, giving preference to the quarter session court business.

Jurisdiction given over causes removed from district and Q. S. courts.

Sec. 32. *And be it further enacted*, That each circuit court shall have the same power, authority and jurisdiction over all suits, matters and things which may be depending and undetermined in any quarter session or district court at the time this act takes effect, the papers and records of which courts may be delivered to the clerk of such circuit court, which such quarter session or district court would have had in case this act had never been passed; and such circuit court shall have the same power, authority and jurisdiction to award executions and other legal process on all decrees and judgments of such quarter session and district courts, as such quarter session or district courts would have had in case this act had never been passed.

Jails.

Sec. 33. *And be it further enacted*, That the jail of each county in which a circuit court is directed to be held by this act, shall be the jail of such circuit court.

Provision as to criminals now in jail.

Sec. 34. *And be it further enacted*, That every criminal or prisoner who shall remain in any district jail at

the time this act takes effect, for trial in such district courts, such criminals or prisoners shall be tried and proceeded against in the circuit court to be held in the county in which such district court is now held, in the same manner in which such prisoner would have been tried and proceeded against in such district court, in case this act had not been passed.

1802.

Sec. 35. *And be it further enacted*, That every writ, execution, attachment, and process of every description which may be issued from any district or quarter session court, before this act takes effect, and returnable to a term of either of said courts, or a rule day thereof, to be held subsequent to the time this act takes effect, shall be legally returnable, and shall be returned by the sheriff or other officer, under like penalties as in other cases, to the first term of the circuit court, to be held in the county in which the district or quarter session court is held, from which such writ or process may have issued; and every such writ or process shall be as good and valid in such circuit court as it would have been in the quarter session or district court from which it issued,\* in case this act had not passed.

As to process returnable to district and quarter session courts.

Sec. 36. *And be it further enacted*, That every bail bond and recognizance of every description, taken and executed before this act takes effect, for the appearance of any person or persons, at any term of any quarter session or district court, which would have been held after the time this act takes effect, in case it had not been passed, such bail bond or recognizance shall be returned to the third day of the first term of the circuit court to be held in the county in which the quarter session or district court is held, to which such bail bond or recognizance may be returnable, except as to the Danville district court, which shall be returned to the Lincoln circuit court, and such bail bond or recognizance shall be as good and valid in said circuit court, and may be discharged in the same manner as it would have been if this act had not been passed. The clerks of the circuit courts shall be entitled to the same allowances for *ex-officio* services, as the clerks of the quarter session courts; and the sheriffs of the several counties shall be entitled to the same allowances as heretofore for similar services, except that no sheriff shall be entitled to any daily allowance for attending the circuit courts.

Bail bonds and recognizances.

Allowance to clerks and sheriffs for *ex-officio* services.

1802.  
To commence.

This act shall commence and be in force from and after the last day of April next, except that the judges to be commissioned by this act, shall be appointed during the present session of the legislature, to hold their commissions from and after the last day of April next, and the circuit judges shall convene on the first Monday in May next, at the state-house in Frankfort, for the purpose of constituting a general court, and shall at that time make an allotment of their different circuits: *Provided, however*, that the district judges shall remain in their office as district judges until the last day of April next.

#### CHAPTER XXIV.

*An ACT allowing compensation to the Justices of the County Courts within this Commonwealth for their Services.*

Approved December 20, 1802.

*Vide Prælection to Chap. 37, Vol. I.*

Certain fees allowed to the justices of the county courts.

SECTION 1. *BE it enacted by the general assembly,* That the justices of the county courts within this commonwealth shall hereafter be allowed for their services, the following fees, and no more, viz.

D. C. M.

For copy of a judgment, and certifying papers on an appeal,	50
For certificate of an oath, where it shall be required,	12 5
For posting a stray or strays (where one or more of the same species are included in the same post note) for the whole service,	17
For issuing an attachment and taking bond,	50
For issuing a summons for a garnishee or garnishees, and taking schedule of effects,	25
For an order of sale,	12 5
For attending to take depositions in any case, per day,	1
For taking a recognizance or special bail,	25
For certifying a power of attorney or deed of conveyance,	12 5

Penalty for signing blank warrants.

Sec. 2. *And be it further enacted,* That any justice who shall sign any blank warrant, or permit his name to be put thereto, shall, for every such offence, forfeit and



## XI. YEAR OF THE COMMONWEALTH.

49

pay the sum of ten dollars, to be recovered, with costs, on motion in the court of quarter sessions in the county where the offence may be committed, by any person suing for the same, one half to the informer, and the other half to be applied towards lessening the county levy; provided the opposite party have ten days previous notice of such motion; or on the presentment of the grand jury, in which case the whole shall be applied to the benefit of the county. 1802.

Sec. 3. *And be it further enacted*, That any justice who shall demand or receive any greater fee for any service than is hereby allowed to him, or any fee for any other service than is hereby expressly specified, shall, for every such offence, forfeit and pay the sum of twenty dollars, to be recovered and applied as aforesaid. Penalty for demanding any other or greater fee.

Every act, or parts of acts, coming within the purview of this act, shall be, and the same are hereby repealed. Repealing clause.  
This act shall be in force from its passage. To commence.

### CHAPTER XXV.

#### *An ACT to dispose of Salt Licks and Salt Springs.*

Approved December 20, 1802.

WHEREAS by the laws heretofore passed for improving and settling the lands south of Green river, salt springs and salt licks, with one thousand acres of land around them, have been reserved to the use of this commonwealth; and whereas it now appears to the general assembly, that to prevent the improvement and settlement of the said lands, and working such salt springs and licks, is impolitic; therefore, Preamble.

Sec. 1. *Be it enacted by the general assembly*, That if any settler has included in his settlement, made under any former law, a salt lick or spring, or may hereafter, by virtue of this act, include in his settlement, any such lick or spring, such settler may obtain a title therefor, upon his or her paying into the treasury of this state, six shillings for every acre which he or she may think proper to survey around or adjacent to said lick or spring, which survey shall not include less than one thousand acres, if so much can be had vacant: *Provided, however*, that nothing herein contained shall be so construed as to affect the claim of any settler within the bounds of the said one thousand acres, where such set- Provision where a settler has included a salt lick or spring.

1802.

holder shall pay one dollar per acre for all land claimed by him or them as aforesaid, agreeable to the rules and regulations of this act, and to obtain a title to the said salt spring or salt lick, and the land around the same as aforesaid; the same proceedings shall be had and pursued, as is directed by the act entitled "an act to amend the act for settling and improving the vacant lands of this commonwealth. *Provided always*, that if any person shall have paid the state price, heretofore fixed by law, upon any lands within the bounds of one thousand acres, reserved around salt licks or springs, or upon which there is a salt spring or lick, such person shall be entitled thereto, upon his or her paying into the treasury six shillings, including the state price, for every acre for which he or she may have paid the price as aforesaid, if paid within two years from the passage of this act.

To commence. This act shall commence and be in force from and after the passage thereof.

## CHAPTER XXVI.

*An ACT to amend an act entitled "an act directing the mode of revising the Criminal Common Law, and providing for the appointment of Revisors, and for other purposes.*

Approved December 20, 1802.

Preamble.

WHEREAS it is represented to the present general assembly, that the act for revising the criminal law, passed at the last session of the general assembly, was not sufficiently explicit: therefore,

Certain duties  
of the revisors.

Sec. 1. *Be it enacted*, That it shall be the duty of the revisors of the criminal law, to exhibit a general view of the common law, the statutes and acts of assembly now in force in this state, for the punishment of offences against the commonwealth, including, not only a description of the offences, and a statement of the penalties annexed to them, but likewise the mode of proceeding in bringing offenders to justice, both by indictment and information: *Provided, however*, that they shall take no notice of the ancient mode of prosecuting criminal offences by appeal.

Arrangement of  
their work.

Sec. 2. *Be it further enacted*, That the said revisors shall be authorised to adopt such an arrangement of the work, as to them may appear most proper; and that in giving forms of indictments, and other instruments of

writing necessary in criminal cases, they shall be permitted to improve and simplify them in such a manner as will render them adapted to the purposes for which they are designed, without incumbering them with useless repetitions or needless circumstances, or uncouth formalities of expression.

1802.

Sec. 3. *And be it further enacted*, That the said revisors shall prepare and report to the next general assembly, a comprehensive bill, including all the offences which are now punishable by law; which shall be arranged in the same order which may be adopted in the revision, so that the text and commentary may, in their plans, be correspondent and uniform. And whereas it may be presumed that some offences are not sufficiently provided against by the existing laws of this commonwealth; it shall be the duty of the said revisors to suggest for the consideration of the legislature, such additions thereto, as will render the said bill more complete and perfect.

To prepare and report a bill.

Sec. 4. And whereas a mode of prosecuting and punishing offences has been provided by act of assembly, differing in some cases, from that which had before been provided by the common law, or by the English statutes: *Be it enacted*, That in such cases, the provisions of the common law, or of the English statutes, shall be, and the same is hereby repealed.

The common law and English statutes repealed in certain cases.

Sec. 5. *And be it further enacted*, That the revisors shall pay no attention in their revision to any offences against the person of the king: *Provided, however*, that this clause shall not be so construed as to affect the provisions against such offences, as though nominally against the king, are, in reality, offences against the commonwealth, or the courts, and tend to impede the due administration of public justice.

Offences against the king to be omitted.

Sec. 6. And whereas rules have been established in relation to trials for treason, different from those which govern in trials for felony: *Be it enacted*, That they shall, in the revision, distinguish between principal and accessory in treason, on the same principle as they are distinguished in other crimes; and the person charged with treason, shall challenge only the same number as in other felonies.

Trials in treason to be conducted like other felonies.

Sec. 7. And whereas certain offences which are punishable by confinement in the penitentiary, have not been

Punishments by confinement declared felonies.

1802. declared to be felonies, and some of the provisions which have been made in the laws concerning the examination and trial of criminals, relate only to cases of treason or felony: *Be it enacted*, That all crimes which may be made punishable by confinement in the penitentiary, except gaming, shall, both as to these and all other intents and purposes, be regarded as felonies.

To commence. This act shall commence and be in force from and after the passage thereof.

### CHAPTER XXVII.

*An ACT to reduce into one the several acts concerning the Turnpike and Wilderness Road.*

Approved December 20, 1802.

SECTION 1. *BE it enacted by the general assembly*,  
 Keeper of the That the governor is hereby authorised and required to  
 turnpike ap- appoint a keeper of the turnpike, whose duty it shall be  
 pointed, to keep the same at the place where it was first erected ;  
 and the keeper of the turnpike shall keep a book, and  
 shall enter therein each day of the month, the sum of  
 money received thereon from the turnpike, and shall  
 transmit said book, or a copy thereof, within every two  
 months, to the commissioner of the road, after he shall  
 have made oath to some justice of the peace, that it con-  
 tains a true and just account of the sum of money received  
 on each day, as shall be stated therein, which shall be  
 certified in the said book by said justice, and signed by  
 the keeper, and also in the copy thereof, if the keeper  
 shall choose to transmit a copy to the commissioner, as  
 before directed. If the said keeper shall be unable to  
 May keep a de- attend at any time to the duties of the turnpike, either  
 puty, from indisposition or unavoidable business, he shall em-  
 ploy some person to attend for him, who shall for the  
 time keep a separate account, under the same regula-  
 tions as above mentioned respecting the keeper and his  
 book in every respect ; and on failure thereof, the keeper  
 thereof shall be responsible. The keeper of the turn-  
 Keeper to give pike shall give bond and good security, to be approved of  
 bond, by the governor, payable to him and his successors, in  
 the penalty of two thousand dollars, and conditioned to  
 this effect—to perform the duties enjoined him by law,  
 and account for all money collected from the turnpike as

herein directed; and for failure in any of said duties, he may be sued upon said bond in any court of this commonwealth having jurisdiction in similar cases; there shall be allowed to the keeper of the turnpike, for his services, two hundred dollars, annually, to be paid out of money collected from the turnpike, fifty dollars of which he is hereby authorised to retain quarterly. The said keeper shall at all times when required by the commissioner of the road, give him a true account of the sum of money received and not accounted for, which was collected from the turnpike, and shall pay to him all such money, except what he is herein authorised to retain.

1802.

His allowance.

To render account to commissioner.

Sec. 2. *Be it further enacted*, That there shall be paid for passing the turnpike, for all wheel carriages twelve and a half cents for each wheel; for each person above ten years of age, six cents two and a half mills; for each head of horse beast, six cents and two and a half mills; for each head of neat cattle, three cents; and for each head of hogs and sheep, one cent: *Provided*, that no toll shall be collected from post-riders or expresses, or from any persons who may be removing with their families to this commonwealth, or from any of such family or property, except waggons and wheel carriages, or from any person or his or her property of any kind, who resides within ten miles of the turnpike; and in case of doubts in any of the above cases, the keeper of the turnpike shall have a right to qualify such persons. If any person shall pass or attempt to pass the said turnpike before paying the fees aforesaid required to be paid, or avoid or attempt to avoid it, every such person shall forfeit and pay five dollars; which shall be considered as toll collected from the turnpike; and it shall be lawful for the keeper to retain any such person until the fine and fees for passing are paid; and if any such wrongdoer is unable to pay the fine and fees, the keeper may discharge them, or employ them in repairing the said road for a period not exceeding six days: *Provided*, that if any person wishes to pass the turnpike, and is unable to pay the fees, upon oath to that effect, which the keeper may administer, such person shall pass free.

Rates of toll.

Postriders, &c. excepted.

Penalty for attempting to pass without paying toll.

Proviso.

Sec. 3. *Be it further enacted*, That the governor shall appoint a commissioner of the wilderness roads, from the Grassy Lick to Cumberland Gap, and of the one intersecting therewith, from its intersection to Lee's Lick;

Commissioner to be appointed.

1802.

Laborers mis-  
behaving, how  
to be dealt with.

Commissioner  
to transmit  
books to gover-  
nor.

His allowance.

Allowance to  
clerk.

Commissioner  
to give bond.

and it shall be the duty of the said commissioner, as soon as there shall be funds sufficient raised from the turnpike, to employ as many good laboring hands, at such times, and for such periods as he shall judge proper, upon the best terms they can be had, to labor on said roads; he shall oversee the hands so employed, and shall cause and direct every repair and alteration to be made on said roads which he shall think proper for making it the best of roads through similar places; if any of the hands misbehave, or will not labor and obey the commissioner's orders, he may dismiss them, being liable for their wages to such time, according to contract; he may call on the keeper of the turnpike at any time for information of the funds collected from the turnpike, and is authorised to receive the same, except as before mentioned, whenever he requires it, receipting for the same; and the keeper of the turnpike shall transmit to the governor a copy of the said receipts, before the first day of November, annually. The commissioner shall transmit to the governor, on or before the first day of October, in every year, the books, copies and accounts which shall have been sent to him by the keeper of the turnpike and his deputies; and the said commissioner shall be allowed for his services, two dollars per day, for the time he is engaged in discharging the duties enjoined him by law, upon his making oath thereof before some county court, and obtaining a certificate to that effect, and of the number of days he was so employed; a copy of which, shall be made out by the clerk of said court, and shall also be given to the commissioner, one of which he may keep to justify him in retaining as much money out of the funds from the turnpike, as will pay for his services and the clerk's fees for entering, recording, and making out the said certificates, and the other he shall transmit to the governor, with the books from the keeper of the turnpike, as is before directed. There shall be paid by the commissioner to the clerk for his services as above required, fifty cents. The commissioner of the road shall give bond and good security, to be approved of by the governor, payable to him and his successors, in the penalty of two thousand dollars, conditioned to this effect—to perform the several duties enjoined him by law, and to account for all money which he shall receive from the keeper of the turn-

pike, by appropriating it in repairing the roads as before directed, except what he is herein before authorised to retain : and on failure in any of said duties he may be sued upon said bond, in any court of this commonwealth, having jurisdiction in similar cases. The commissioner and keeper shall continue in office until otherwise directed by law, or they give at least three months notice to the governor of their intention to resign : *Provided, however,* that the governor may at any time remove from office either of them, for what he shall judge sufficient cause. The commissioner and keeper shall take an oath, before they enter into the duties of their office, to faithfully discharge the same. The keeper of the turnpike shall keep a correct list of the rates of toll affixed on each side of the turnpike gate, which shall be printed in plain legible print, for the information of travellers ; and shall also keep at the turnpike a copy of this act, which he shall shew to any passenger desiring to see the same.

1802.

*E. J. Low*  
Commissioner  
& keeper, their  
continuance in  
office.

Rates to be fixed  
up.

*Chase*  
To commence.

This act shall be in force from and after the expiration of the term for which the said turnpike is leased by the governor ; or in case of the removal, death, or resignation of the keeper of the turnpike, this act shall thereupon be immediately in force.

CHAPTER XXVIII.

*An ACT to suppress Riots, Routs, and unlawful Assemblies of the People.*

Approved December 21, 1802.

The section repealed by this act, has no relation to any of the offences here provided against. It is in the act of 1801, and contained all the law of this commonwealth, at that time, against forgery. It was the thirty-second section which the legislature intended to repeal : the mistake was discovered and corrected in 1804—*Vide Ch. 254, sequens.*

The section intended to be repealed by this act, as well as the act itself, are imitations of a Virginia act of 1786, which is substantially the same with an act of the English parliament.

But the Virginia act goes no further than riots, routs, and unlawful assemblies. Ours has unfortunately added *breach of the peace* ; which can hardly be considered as a definable, substantive, independent offence. But as many misdemeanors, as well as every felony, include in them actual or constructive breaches of the peace, persons guilty of enormous crimes have escaped punishment, by procuring themselves to be prosecuted under this act, for a breach of the peace. But even this would have been tolerable, had the punishment remained as fixed by the legislature of Virginia,

SECTION 1. *BE it enacted by the general assembly,* Riots, routs,  
That if any riot, rout, unlawful assembly of the people, &c. how to be suppressed.

1802.

or breach of the peace, be made or committed in any part of this commonwealth, a justice of the peace, together with the sheriff or under-sheriff of the county, or the constable, where such riot, rout, or unlawful assembly, or breach of the peace, shall be made, shall come with the power of the county, if need be, to arrest him or them; and shall arrest them, and put him or them in the jail of the county, unless they give bail with sufficient security, for their appearance at the time and place fixed on for their appearance by said justice; and it shall be the duty of the sheriff or under-sheriff, or constable, to summon twelve jurors to attend at the time and place directed by the justice as aforesaid; who, after being sworn by the said justice, shall proceed to punish each offender, by a fine not exceeding twenty dollars, and in default of the payment thereof, shall be imprisoned not exceeding ten days. And if it happens that such trespassers and offenders, or either of them, be departed before the coming of said justice and sheriff, or under sheriff or constable, the same justice shall diligently enquire within one month after such riot, rout, or unlawful assembly of the people, or breach of the peace so made, and thereof shall hear and determine according to law; and for this purpose, the sheriff, or under-sheriff, or constable, having a precept to him directed by said justice, shall summon the offender or offenders, and return twelve fit persons as jurors, who having been sworn, or in case of their non-attendance, the deficiency being supplied by by-standers, shall enquire of said riot, rout, or unlawful assembly, or breach of the peace, and award against him or them whom they shall find guilty thereof, due pains by imprisonment or amercement, as is before directed: and if so many of them should not appear, those who shall make default, shall be fined by the said justice not exceeding five dollars each; and if default be in the sheriff or under-sheriff, or constable, he so in default shall forfeit to the commonwealth twenty pounds, to be recovered by action of debt, in any court having cognizance thereof, to be applied towards lessening the county levy: and moreover the justices of the peace in every county where such riot, rout, or unlawful assembly of the people, or breach of the peace, shall not be made in their presence, having information thereof upon oath or affidavit, together

Offenders may  
be imprisoned.

Proceedings.  
where offenders  
have departed.

Penalty on ju-  
rors for making  
default.

On sheriffs, &c.

Duty of justi-  
ces, &c.



with the sheriff, under-sheriff or constable of the same county, shall execute this act by summoning a jury and proceeding as before directed, every one on pain of 20 pounds, to be recovered by action of debt or information in any court having cognizance thereof, to be applied towards lessening the county levy, as often as they shall be found in default in the due execution of this act; and on such default of the justices and sheriff or under-sheriff, the said offence or offences shall be punished as heretofore. The whole of the 22d section in the act entitled "an act to amend an act entitled an act to amend the penal laws of this commonwealth," is hereby repealed. 1802.

Sec. 2. *And be it further enacted*, That the sheriff, under-sheriff or constable, shall be entitled to one dollar and fifty cents, and no more, for summoning each jury under this act, and attending upon the trial and conducting to jail any offender against the same; and such officer shall be entitled to the same fee for serving any warrant or precept under this act, and summoning witnesses, as are allowed by law to constables for similar services: and the defendant shall, in every case he is found guilty under this act, pay the costs of the prosecution, which the justice before whom he is convicted shall award against him, upon the verdict of the jury being against him; and the prosecutor shall, in every case where the defendant is acquitted, pay the costs of the prosecution, for which judgment shall be entered against him by the justice before whom the defendant is tried, as before directed. Allowance to  
sheriffs, &c.  
Offender sub-  
jected to costs.  
When a prose-  
cutor shall pay  
costs.

This act shall commence and be in force from and after the passage thereof. To commence

## CHAPTER XXIX.

*An ACT concerning the Title Papers of Lands in the forks of Big Sandy.*

Approved December 22, 1802.

WHEREAS it appears to the present general assembly, that the original title papers for lands lying in the forks of Sandy, which fell into this state by the act of assembly passed the 12th day of December, 1799, establishing the boundary line between this state and the Preamble

1802.

state of Virginia, yet remain in the register's office of the last named state : therefore,

R. Thomas appointed, and for what.

Sec. 1. *Be it enacted by the general assembly,* That Rowland Thomas be, and he is hereby appointed agent for this commonwealth, to ask and receive of the register of the land-office of the state of Virginia, and the surveyors of the counties in said state, adjacent to the said forks of Sandy, copies of all the original title papers for lands lying within this state in the forks of Sandy, and which fall into this state by the line established as aforesaid, and when so received, safely lodge them with the register of this state.

Lands to be entered for taxes.

Sec. 2. *And be it further enacted,* That all persons who claim lands lying in the boundary aforesaid, shall, on or before the first day of December next, enter them with the auditor of public accounts, if non-residents, if residents, with the commissioner of the tax, as required in case of other non-residents and residents, and if the said claimants shall fail or refuse to enter their lands as aforesaid, the same shall be forfeited to the commonwealth.

This act to be advertised.

Sec. 3. *And be it further enacted,* That the said Rowland Thomas shall cause this act to be advertised for eight weeks successively in one of the papers published at the city of Washington and the city of Richmond, for the information of persons who may be affected by this act.

Compensation to R. Thomas.

Sec. 4. *And be it further enacted,* That the said Rowland Thomas shall be allowed the sum of two hundred dollars, to be paid him in advance, for procuring necessary stationery, and to complete the work hereby delegated him, and bringing the papers to this state. And the auditor of public accounts shall issue his warrant on the treasurer for the said two hundred dollars, which shall be paid accordingly.

To commence:

This act shall be in force from the passage thereof.

### CHAPTER XXX.

#### *An ACT concerning Executions.*

Approved December 22, 1802.

See the prelections to Chapters 61 and 274, Vol. I.

WHEREAS the present laws respecting executions, are, in many instances, so defective as to amount to an absolute denial of justice :

Sec. 1. *Be it therefore enacted by the general assembly,* That in any case where a sheriff or other officer has levied an execution on the lands of the defendant, and the said lands would not sell for three-fourths of its value; or the collection of the debt or debts have been prevented by the non-attendance of the commissioners, or any other cause; it shall and may be lawful for the plaintiff or plaintiffs in such cases, by motion to the court in which such judgment or judgments were obtained, to quash the execution so levied as aforesaid, having given ten days previous notice to the opposite party, and take out any writ of execution given by law, as though no execution had ever issued in such case; and the sheriff, or other officer, shall proceed under such new execution, in all respects, as though no former execution had ever issued.

1802.

This act shall be in force from the passage.

CHAPTER XXXI.

*An ACT concerning Prison-Breaking in this Commonwealth, and for other purposes.*

Approved December 22, 1802.

See the prelection to Chap. 9, Vol. II.

SECTION 1. *BE it enacted by the general assembly,* That any person or persons who shall at any time hereafter wilfully break, burn, or otherwise injure or destroy any county, district, or other public jail or court-house, or cause the same to be done, by aiding, abetting, advising or assisting therein, shall be liable, jointly and severally, to be sued in any court of competent jurisdiction, in the name of the governor of this commonwealth for the time being, or his successors; in either of which cases the defendant may be held to bail: *Provided,* that if any of the offenders shall have fled, or removed him, her or themselves in different counties or districts, a *capias ad respondendum*, may issue from the clerk of the court in which the suit may be brought against any such defendant or defendants, directed to the sheriff or officer of the county in which the defendant or defendants may be found, in the same manner as is provided in cases of suit brought on joint obligations. All monies collected for an injury done to the county prison or court-house, shall be applied towards lessening the coun-

Persons breaking, &c. a prison, liable to an action.

Proceedings thereon.

Proceeds arising therefrom, how appropriated.

1802.

ty levy ; and the sheriff or other officer receiving the same, shall be liable to account for, and subjected to the same remedy, in case of refusal, as is provided in other cases of money received on execution. All monies collected for an injury done to a district or other public jail or court-house, shall be applied towards repairing the same ; and the officer collecting or receiving shall account for and pay the same to any person or persons authorised by the governor to receive the same ; and in case of refusal, be liable as above mentioned in the case of money received for the use of the county.

Persons aiding debtors, to escape from prison, liable to an action.

Sec. 2. *And be it further enacted*, That if any person or persons shall in any wise aid or assist any person imprisoned by execution for debt or on *mesne* process to escape from prison or confinement, or knowing of such escape, shall secret, or any way assist in secreting any such person or persons from any officer legally in pursuit of any such person or persons ; every such offender or offenders shall be jointly and severally liable in an action at the suit of the party injured, for all damages which may be sustained by reason of the escape or secretion as aforesaid.

The party may be punished as heretofore.

Sec. 3. Nothing in this act shall be so construed as to exonerate any offender within the purview thereof from any punishment which may be inflicted by any law heretofore made or in force ; any law, usage or custom to the contrary notwithstanding.

This act shall commence and be in force from the passage thereof.

## CHAPTER XXXII.

*An ACT providing for the transmission of Lists of certain Certificates to the Register's Office.*

Approved December 22, 1802.

Clerks of courts to transmit certain certificates to the register.

SECTION 1. *BE it enacted by the general assembly*, That it shall be the duty of the clerks of the several county courts within this commonwealth, by order of which certificates have been, or may hereafter be granted for any vacant land, in consequence of any act of the general assembly, to transmit to the register of the land office, on or before the first day of June next, a list of all certificates that have been, or may be before that day

issued from such court to settlers under the afore recited act or acts ; which list shall contain the name of the person to whom the same has issued, also the date and number of such certificate, and the quantity of land for which the same did issue.

1802.

Sec. 2. *And be it further enacted*, That it shall be the duty of the said clerks to transmit, once in every six months thereafter, to the register of the land-office, a similar list of such certificates, as may, after the said first day of June, be granted by their respective courts.

Future certificates to be transmitted.

Sec. 3. The clerks of the several courts shall, as a compensation for the services herein directed to be performed, receive from the public treasury four cents for every certificate, of which a memorandum shall be transmitted as aforesaid. The register shall certify to the auditor the number of such certificates contained in each list, and the auditor shall issue his warrant for the amount that may be due therefor, to each clerk respectively.

Compensation therefor.

Sec. 4. *And be it further enacted*, That if any clerk shall neglect to transmit to the register as aforesaid, any list or lists of certificates herein before mentioned, within the time prescribed for such transmission by this act, he shall, for every such omission, pay the sum of fifty dollars, to be recovered by any person who may sue for the same, in the quarter session court of the county to which the said clerk may belong, or in the district court of the district in which he may reside.

Penalty for neglect.

This act shall commence and be in force from and after the passage thereof.

To commence.

### CHAPTER XXXIII.

*An ACT directing in what manner the Trustees of the Transylvania University may move against delinquent Surveyors.*

Approved December 22, 1802.

WHEREAS by several acts of the Virginia assembly, passed prior to the erection of the district of Kentucky into a state, the Transylvania seminary was endowed with one sixth part of all surveyors' fees in the district aforesaid ; and it being doubtful in what court the trustees of the said Transylvania seminary, now established the Transylvania University, ought to proceed for the

Preamble.

1802. recovery of said fees from delinquent surveyors: for remedy whereof,

Surveyors to settle their accounts, and for what fees. Sec. 1. *Be it enacted by the general assembly,* That all surveyors throughout this commonwealth, shall settle their accounts with the trustees of the Transylvania university, and pay one-sixth part of all fees they may have received, or shall hereafter receive on those original surveys and entries, to one-sixth of the fees on which the said trustees may be entitled to by law, as well those who are now in office, as those who have been surveyors and are now out of office.

Not to be subjected to any penalty if they do settle their accounts. Sec. 2. *And be it further enacted,* That all surveyors heretofore or now in office, who shall settle according to the directions of this act, shall not be liable to any further penalty or damage on account of their not complying with the original laws which gave one-sixth part of the surveyors' fees to the Transylvania seminary.

*And* Sec. 3. *Be it further enacted,* That the trustees of the Transylvania university, shall cause this act to be published three times in all the newspapers in this state, prior to the first day of April next.

Amount due may be recovered, how & before what court. Sec. 4. *And be it further enacted,* That it shall and may be lawful after the expiration of six months from the passage of this act, for the trustees of the Transylvania university to move against any delinquent surveyor, as well those in office, as those who have heretofore been in office, and have not settled the respective amount due the said trustees, in the general court in Frankfort, in the same manner as the auditor is directed to move against delinquent sheriffs in this commonwealth; and the said general court shall have competent jurisdiction to hear all such motions, to give judgments and award executions as in similar cases.

'Surveyors' fees reduced in certain cases. Sec. 5. *And be it further enacted,* That all surveyors' fees shall hereafter be reduced one-sixth upon all original surveys; and no part of the surveyors' fees for services hereafter to be performed, shall from henceforth be payable to the trustees of the Transylvania university.

To commence. This act shall be in force from its passage.

XI. YEAR OF THE COMMONWEALTH.

62

CHAPTER XXXIV.

1802.

*An ACT in addition to an act entitled "an act to amend the act entitled an act to amend the Penal Laws of this Commonwealth."*

Approved December 22, 1802.

*Vide* Vol. II, Chap. 4, and the Notes.

SECTION 1. *BE it enacted by the general assembly,* That if any person be convicted of breaking into any dwelling house, or any part thereof, in the day time, or into any out-house belonging to and used with any dwelling-house, and feloniously taking away any money, goods or chattles, being of the value of five shillings or upwards, although no person shall be in the said house or out-house at the time of such felony committed; or if any person be convicted of aiding, counselling, or abetting any person in committing such offence; he shall undergo a confinement in the jail and penitentiary, for any period not less than one year, nor more than five years.

Punishment of  
house-breaking  
in the day time.


Sec. 2. If any person be convicted of robbing any person in any part or parcel of his dwelling house or dwelling place, or in any booth or tent in any fair or market, the owner or dweller in the same dwelling house or dwelling place, or booth or tent, his wife, or children, or servants being then within the same house or place where such robbery shall be committed, or in any other place within the precinct of such dwelling house; or if any person shall be convicted of aiding, counselling or abetting any person in committing such offence; he shall undergo a confinement in the jail and penitentiary for any period not less than one year, nor more than six years, whether the owner or dweller in such house or place, his wife, children or servants then and there being, shall be either sleeping or waking.

Of robbery  
from a person  
in a house, &c.

Sec. 3. If any person shall be convicted of stealing, taking and carrying away any money, goods or chattles of the value of four dollars or upwards, either from the person of any one, or from his house, without violence or putting in fear, or of aiding, counselling or abetting any one in committing such offence; he shall undergo a confinement in the jail and penitentiary, for any period not less than two years, nor more than four years: but if the money, goods or chattles so stolen, be

Of larceny for  
four dollars or  
upwards.

If under 4 dol-  
lars,

1802.  not of the value of four dollars, such offender shall undergo a confinement in the jail and penitentiary, for any period not less than one year, nor more than two years.

Of larceny under four dollars in certain cafes.

Provido.

Sec. 4. If any person shall be convicted of stealing, taking and carrying away any money, goods or chattles, under the value of four dollars, neither from the person of any one, nor from his house, or of aiding, counselling or abetting any one in committing such offence; he shall undergo a confinement in the jail and penitentiary, for any period not less than one year, nor more than two years : *Provided*, That nothing in this act contained shall be so construed as to alter any punishment provided by any act of assembly for the stealing of any articles of property expressly mentioned in such act, and not herein expressly mentioned.

For breaking a warehouse, &c.

Sec. 5. Every person that shall at any time in the night or day, feloniously break any ware-house, store-house, or shop, whether such ware-house, store-house or shop, be or be not a mere depository for goods, and shall take therefrom any money, goods or chattles, wares or merchandize of the value of three dollars or more, although such goods or chattles, wares or merchandize, be or be not exposed to sale, and although the owner thereof, or any other person be or be not in ~~any~~ such ware-house, store-house, or shop; or shall aid, assist, counsel, hire or command any person or persons, so to break and rob any such ware-house, store-house or shop; shall, being thereof lawfully convicted, undergo a confinement in the jail and penitentiary for any period not less than one year, nor more than seven years.

For stealing a land warrant.

Sec. 6. Any person who shall be convicted of stealing from the possession or custody of another, any warrant from the register of the land-office, to authorise a survey of waste and unappropriated land, or of altering or erasing, or aiding or assisting in the alteration or erasing of any such warrant, or of forging or counterfeiting, or of aiding, abetting or assisting in forging or counterfeiting any written or printed paper, purporting to be such warrant, or of transferring to the use of another, or for his or her own use, presenting or causing to be presented to the register for the exchange thereof, or to a surveyor for the execution thereof, any such warrant or paper purporting to be such warrant, knowing the same ~~to~~ so transferred or presented for the exchange

Or for forging, altering, or counterfeiting the same.



or execution thereof, to be stolen from the possession or custody of another, or altered or erased, or forged or counterfeited; shall undergo a confinement in the jail and penitentiary for any period not less than two years, nor more than ten years. 1802.

Sec. 7. Any person convicted of stealing any pump, materials or goods from any vessel in distress, or shall otherwise wilfully contrive, assist or procure the destruction of any vessel, shall undergo the same punishment as is provided by an act passed in the year 1801, for assisting in stealing any such pump, materials or goods. For stealing a pump, or for destroying any vessel.

Sec. 8. *And be it further enacted,* That the words "or any endorsement or assignment of any bond, writing obligatory, bill of exchange or promissory note for the payment of money or property," be inserted between the words "property" and "or any," in the 9th line of the 22d section of the act passed in 1801 for amending the penal laws, and be considered as a part thereof. The act of 1801 amended.

Sec. 9. Whosoever shall alter, forge or counterfeit any bank bill or bank note of any company incorporated by lawful authority in any part of the United States, or shall erase or alter the same or any endorsement thereon, or shall tender in payment, utter, vend, exchange, or barter any such altered, forged or counterfeited bill or note, or any erased or altered bill or note, or the endorsement thereon, knowing it to be such, or shall knowingly demand to have the same exchanged for ready money, with intention to defraud; shall undergo a confinement in the jail and penitentiary, for any period not less than two years, nor more than ten years. Of forgery and counterfeiting.

Sec. 10. If any person, other than an officer of such company duly authorised and employed for that purpose, shall make or use, or cause or procure to be made or used, or knowingly aid or assist in the making or using, or, without being authorised as aforesaid, shall knowingly have in his custody or possession (without lawful excuse, the proof whereof shall lie upon the person accused) any frame, mould or instrument, for the making of paper, with the words *bank of the United States*, or other words expressing the name of any banking company, incorporated as aforesaid, visible in the substance of such paper, or shall make or cause or For manufacturing paper for bank notes, without lawful authority, &c.

1802.

procure to be made, or knowingly aid or assist in the making of any paper in the substance of which such words shall be visible—or if any person, except as before excepted, shall by any art, mystery or contrivance, cause or procure the said words to appear in the substance of any paper whatsoever; he shall undergo a confinement in the jail and penitentiary for any period not less than two, nor more than ten years.

For engraving  
any plate, &c.  
for bank notes,  
without lawful  
authority.

Sec. 11. If any person, without being authorised as aforesaid, shall engrave, cut, etch or scrape in mezzotinto, or shall cause or procure the same to be done, or shall aid or assist in so doing, in or upon any plate of copper, or other metal or mixture of metals, or upon wood or any other material, any note or bill of any company incorporated as aforesaid, or any blank note or bill of any such company or part of the same, containing the words *bank of the United States*, or other words descriptive of the bank from which the same purports to be issued, or shall use any such plate so engraved, or any other instrument for the making or printing of such bill or note; or shall knowingly have in his custody any such plate or instrument; or shall knowingly and wilfully utter or dispose of, for another's use, any such bill or note, or blank bill or note, containing the words aforesaid: such offender shall undergo a confinement in the jail and penitentiary, for any period not less than one year, nor more than four years.

For making in-  
struments to  
counterfeit the  
current coin.

Sec. 12. Whoever, other than the persons employed by public, lawful authority, shall knowingly make or mend, or assist in the making or mending of any puncheon, counter puncheon, matrix, stamp, die, pattern or mould, of steel, iron, silver, or other metal or metals, or of spauld or fine founder's earth or sand, or of any other materials whatsoever, in or upon which there shall be, or be made or impressed, or which will make or impress, the figure, stamp, resemblance or similitude of both or either of the sides or flats of any gold or silver coin current within this commonwealth, whether the same be authorised to pass by weight or according to its denomination; or shall knowingly make or mend, or begin or proceed to make or mend, or assist in the making or mending of any edger or edging tool, instrument or engine, not of common use in any trade, but contrived for marking money round the edges with let-

ters, grainings or other marks or figures, resembling those on the edges of lawful money; or any press for coinage, or any cutting engine for cutting round blanks, by force of a screw, out of flatted bars of gold, silver or other metal; or shall knowingly buy or sell, hide or conceal; or without lawful authority or sufficient excuse for that purpose, (the proof whereof shall lie upon the accused,) shall knowingly have in his house, custody or possession, any such puncheon, counter puncheon, matrix, stamp, die, edger, cutting instrument, or other tool or instrument before mentioned; and whoever shall make and impress on any round blanks of base metal of the size and figure of any gold or silver coin, current as aforesaid, the figure, stamp, resemblance or similitude of the sides or flats of such gold or silver coin, of whatever colour the same may be, or shall knowingly buy or sell, hide or conceal any such pieces of base metal so impressed; or shall gild or case over with gold or silver, or with any wash or materials producing the colour of gold or silver, any such pieces of base metal resembling any the current coin of this commonwealth; any such person, his counsellors, procurers, aiders and abettors, shall be adjudged guilty of felony, and shall undergo a confinement in the jail and penitentiary for any period not less than one year, nor more than four years. And if any such tool, instrument, engine or pieces of metal, or if any plate on which may be engraved any bank note, or any part thereof, be hid or concealed, or found in the house, custody or possession of any person; the same may be seized and carried forthwith before some justice of the county, to be produced in evidence at the trial of the offender, and then defaced and destroyed.

1802.

Such instruments to be seized and destroyed.

Sec. 13. If any person shall wilfully and maliciously shoot at and wound without killing, any person with a gun or other instrument loaded with a leaden bullet, or other hard substance; or shall wilfully and maliciously cut or stab any person with a sword or other deadly weapon, with an intention to kill—if the person so stabbed die not thereby; or shall wilfully and maliciously administer poison—if death do not ensue in consequence thereof—to any person; such offender, his aiders, abettors and counsellors, shall undergo a confinement in the jail and penitentiary for any period not less than one year, nor more than five years.

Of wounding without killing

Or poison.

1802.  
For threats to  
extort money,  
&c.

*Page*

Sec. 14. If any person shall knowingly send or deliver any letter, with or without a name signed thereto, or signed with a fictitious name, threatening to kill any person, or to burn or destroy his house or other property, or to accuse him of any felony, with a view or intent to extort or gain money, goods, wares, or merchandize, from the person or persons so threatened; he shall undergo a confinement in the jail and penitentiary, for any period not less than one year, nor more than two years.

For assaults,  
&c. with in-  
tent to rob.

Sec. 15. If any person or persons, with any offensive weapon or instrument, unlawfully and maliciously shall assault, or shall by menaces, or in or by any forcible or violent manner, demand any money, goods or chattels of, or from any other person or persons, with a felonious intent to rob or commit robbery upon such person or persons; such offender, his aiders, abettors and counsellors, shall undergo a confinement in the jail and penitentiary for any period not less than one year, nor more than two years.

Of embracery.

Sec. 16. Any person who shall attempt to corrupt, or influence, or instruct any juror or jurors, to incline him or them to be more favorable to the one side than to the other, by money, promises, letters or threats, shall be deemed guilty of embracery—and shall be fined and imprisoned at the discretion of a jury.

Murder com-  
mitted in at-  
tempting to per-  
petrate an un-  
lawful act, ex-  
plained.

Sec. 17. And whereas doubts have been entertained, whether such killing as may happen in the perpetration or attempt to perpetrate any unlawful act, be murder within the meaning of the act to amend the penal laws, passed at the last session of the general assembly, unless it be in the case of arson, rape, robbery, or burglary: *Be it enacted*, That the said act shall not be so construed as any way to alter or change the idea of murder as it stands at common law.

Accessories be-  
fore the fact,  
punishable.

Sec. 18. In all felonies, accessories, before the fact, shall be liable to the same punishment as their principals respectively, and may be prosecuted, though their principals be not taken.

Free persons  
only to be con-  
fined in the pe-  
nitentiary.

Sec. 19. *And be it further enacted*, That whenever the punishment for any offence shall be confinement in the penitentiary; such punishment shall be considered as applicable to the case of free persons only; any slave convicted of murder, arson, rape committed on a white

woman, robbery from the person, or burglary, shall suffer death ; any slave convicted of any other offence, or of being accessory thereto before the fact, shall be sentenced to receive on his or her bare back, at the public whipping-post, any number of lashes not exceeding thirty nine.

1802.

Punishment of slaves.

Sec. 20. *And be it further enacted*, That the several county courts respectively, shall have full power to remove the keepers of the county jails, whenever it shall appear to them that such jailors have been guilty of neglect of duty ; and the governor shall in like manner have full power to remove from office any district jailor, or the keeper of the state-house.

County courts to have power to remove jailors.

Governor may remove the keeper of the state-house.

Sec. 21. And whereas doubts have been entertained with respect to the jurisdiction of the courts of quarter sessions in criminal cases : *Be it enacted*, That no free man shall be tried in any quarter session court, for any offence for which the judgment on conviction, shall be death or confinement in the jail and penitentiary. And to prevent all doubt with relation to the meaning and intention of the examination of any person apprehended for a criminal offence, before the examining court ; it is hereby declared and enacted, that it is the duty of such examining court, to declare whether he ought to be tried or not, and in what court ; and that the determination of such examining court, if in favor of the prisoner, shall be considered as a final acquittal of the party accused : *Provided always, and be it further enacted*, That such examining court may, for good cause, adjourn from time to time, so that the last time to which it may adjourn, be not more than ten days after the first day on which such examining court met for the examination of the charge : *And provided also*, that where it shall appear to such examining court, that the prosecution is collusive or irregular, such court may quash and dismiss the prosecution, and release the person accused ; and such dismissal and release shall be no bar to a second prosecution against such person for the same offence.

Preamble.

Certain duties to be done by the Q. S. court.

Sec. 22. In no indictment for burglary or house-breaking, shall it be necessary to declare who was the proprietor of the house alleged to have been broken : *Provided*, that such house be otherwise sufficiently identified. The same order and mode of trial shall be observed for all offences against this act, committed by

The owner of a house not necessary to be inserted in an indictment.

1802. freemen or slaves, as are observed in the trials of freemen and slaves respectively for similar offences.

Certain amend-  
ments to the  
act of 1801.

Sec. 23. *Be it further enacted*, That in the 3d, 10th, 12th, 17th and 18th sections of the act of assembly, passed the 19th day of December, 1801, entitled "an act to amend an act, entitled an act to amend the penal laws of this commonwealth;" that wherever the words six months are mentioned in the said sections, the same are hereby altered to one year, any law to the contrary notwithstanding.

Certain statutes  
repealed.

Sec. 24. *And be it further enacted*, That the statutes of the 39th of Elizabeth chapter the 15th, the 5th and 6th of Edward the 6th chapters the 9th and 10th, the 8th of Elizabeth chapter the 4th, the 5th of Elizabeth chapter 14, the 5th Henry the 4th chapter the 4th, the 37th of Henry 8th chapter 6th, the 43d of Elizabeth chapter 7th, the 7th section of the act passed in 1798, to amend the penal laws of this commonwealth; all English statutes and laws relating to witchcraft, to false and pretended prophecies; and to religious doctrines and observances; any statute which imposes a penalty for exercising a trade without having served an apprenticeship; all laws and statutes which provide for the punishment of offences for which other punishments are provided by act of assembly, together with all laws, statutes and acts or parts thereof, which come within the purview of this act, shall be, and the same are hereby repealed.

This act shall commence and be in force from the passage thereof.

#### CHAPTER XXXV.

*An ACT amending certain Penal Laws, and making further provisions for the regulation of the Penitentiary.*

Approved December 22, 1802.

*Vide Vol. II, Chap. 4, and the Notes.*

Clerk of examining court to transmit a statement of expenses for apprehending criminal, to clerk of district court,

SECTION 1. *BE it enacted by the general assembly*, That whenever it shall be the opinion of any examining court, that any prisoner brought before them ought to be tried in a superior court of criminal jurisdiction, it shall be the duty of the clerk of such examining court to transmit to the clerk of the district court, before the

time such prisoner ought to be tried, a statement of all the expenses attending the apprehension, guarding, maintenance and examination of such prisoner, in the manner and form following, to wit :

1802.

"I do hereby certify that the following items contain the amount of the expenses incurred by the commonwealth in the prosecution, &c. of A. B. for felony, viz :

Form of such statement.

D. C. M.

To three justices of the court of Q. S. one day,	6 00 0
To clerk for attending examining court,	4 00 0
To sheriff for summoning and attending same,	4 17 0
To do. for summoning four witnesses,	84 0
To maintenance ten days, at 18 cents per day,	1 80 0
To two guards ten days, at 75 cents each per day,	15 00 0
To witnesses attendance,	5 00 0
	<hr/>
	36 81 0

Attest, E. F. C. M. C. Q."

And the sheriff who removes such prisoner to the district jail, shall, at the time that he delivers him into the custody of the district jailor, lodge with the clerk of the district court, a certificate of the expenses attending such removal. Whenever a prisoner shall be convicted in any district court, it shall be the duty of the clerk of such court to transmit to the keeper of the penitentiary, by the sheriff who conveys the convict, a statement of the reparation adjudged to the party injured, and likewise of all expenses which have been incurred in the maintenance, guarding, trial, examination and removal of such convict to the district jail, in the manner and form following, to wit :

Sheriff to lodge same when he delivers criminal to district jailor.

Clerk of district court to transmit to the keeper a statement of the reparation, expenses, &c. of a criminal, after conviction.

"I do hereby certify that the following items contain the amount of the expenses incurred by the commonwealth in the prosecution, &c. of A. B. convicted of in the district court :

Form thereof.

D. C. M.

To amount of charges as certified by the clerk of the examining court,	36 81 0
To charges of removal, as per the sheriff's certificate, from the county to the district jail,	
To sheriff for summoning venire,	
To do. for summoning witnesses,	

1802. To expenses of venire,  
 To do. of witnesses,  
 To sheriff for            days attendance,  
 To maintenance in the district jail,  
 To amount of reparation adjudged to G. H."

And where the said guards, &c. shall attend two or more prisoners, the expenses shall be apportioned amongst them respectively : and the said sheriff shall lodge with the keeper of the penitentiary a certificate of the expenses attending the removal of the convict to the penitentiary. And should either of the said clerks or sheriffs neglect to transmit the statement, or to lodge the certificate required of them respectively, he shall forfeit the sum of sixty dollars.

Sec. 2. The lands, tenements, goods and chattels of every person sentenced to undergo a confinement in the jail and penitentiary house, shall be liable and subject, in preference to all other demands, except dower and jointure, to discharge whatever restitution or reparation may be adjudged to the injured party, and shall be bound from the time of his examination before the examining court ; and such party shall be entitled to an execution for the amount thereof, from the clerk of the court in which such offender shall have been convicted ; and shall proceed therein, as in cases of judgment at law, except only, that the goods and chattels of such convict, taken in execution, shall not be replevied : and the officer to whom such writ may be directed, shall make return of such writ to the keeper of the penitentiary, under the penalty of sixty dollars for neglecting so to do.

Sec. 3. On the arrival of any convict at the penitentiary, it shall be the duty of the agent herein after mentioned, to open an account between such convict and the commonwealth, in which such convict shall be charged with all the expenses certified by the clerk and sheriff as aforesaid, with so much of the reparation or restitution adjudged to the party as may remain unsatisfied, with the expenses of his clothing and subsistence ; with such portion as the inspectors may deem reasonable, of the expenses incurred by the employment of the said agent, and of watchmen in the penitentiary, and with so much of the amount due to the commonwealth from any prisoner who may escape from the penitentiary, as the inspectors may adjudge that he ought to pay : and such



convict shall be credited with the nett proceeds of all his labor in the penitentiary. And should it appear at the expiration of the time for which he shall have been sentenced, that any balance remains in his favor, it shall be appropriated to his use, in such manner as the inspectors may deem most advantageous.

1802.

Convict to have credit for his labor.

Sec. 4. When any convict shall break out of, or escape from the penitentiary, the keeper thereof, and one of the inspectors, shall immediately issue a warrant directed to all sheriffs and constables throughout the commonwealth, and to all persons whatsoever, authorising and requiring them to seize and convey to the penitentiary such convict; and the person or persons so delivering him, shall be entitled to a reward not exceeding one hundred dollars, at the discretion of the keeper and inspectors, to be paid out of any monies in the hands of the agent, and charged to the account of such convict. And should the keeper and one of the inspectors deem it necessary, they shall employ any person or persons to go in pursuit of the convict, allowing them a reasonable compensation for their trouble, to be paid in the same manner. And should any sheriff or constable refuse or neglect to obey such warrant, he shall be subject to the same penalties as might be inflicted for refusing or neglecting to obey the warrant of any justice of the peace; or should any person aid or assist such escape, or by violence or threats of violence, oppose any officer or other person attempting to take such fugitive, he shall, on conviction of such offence, be sentenced to undergo a confinement in the jail and penitentiary house, for any term not exceeding four years, nor less than one year: or should any person comfort, harbor or conceal such fugitive, knowing him to be such, except it be the husband or wife of such fugitive, he shall be considered as guilty of a misdemeanor, and shall, on conviction, be fined in any sum not exceeding eighty dollars; and shall be committed to the jail of the county, until the same be paid. When any convict, who may break out of the penitentiary, or get over the wall enclosing the yard thereof, shall be re-taken, he shall, after a bill of indictment has been found against him by a grand jury, be tried before the Franklin district court, a jury being empannelled as in other cases: and the court, upon conviction, shall sentence him to a farther confinement in

An inspector & the keeper may issue a warrant to re-take any convict.

The reward.

May be pursued.

Penalty on sheriff, &c. refusing to obey warrant.

Persons aiding convicts when escaped, their punishment.

Penalty for concealing fugitives.

Proceedings against convict when re-taken.

1802.

All convicts  
privy to the es-  
cape of any one  
liable to pay  
the debts due  
from him.

the penitentiary, to commence after the expiration of the time for which he was before adjudged to such confinement, and to continue so long as in their discretion may seem meet; and he shall be charged with the expenses of re-taking and prosecuting him, as in other cases: *Provided, however,* that such convict shall remain in the custody of the keeper of the penitentiary till the time of his trial; and shall be committed to the penitentiary again, agreeable to his former judgment, though he should be acquitted of the charge of breaking the penitentiary, or otherwise discharged from further prosecution for such offence: *And provided also,* that he shall not undergo any examination before a called court previous to such trial. Should any such convict who may escape from the penitentiary not be re-taken, the amount of his debt to the commonwealth shall be charged to such of the convicts as the inspectors may have good reason to believe were apprised of his intentions to escape, in such proportions as the inspectors may deem equitable, after taking into view all the circumstances of the case.

The wife of any person convicted for more than one year, may apply for alimony.

Sec. 5. When any person shall be sentenced to confinement in the penitentiary for any term exceeding one year, it shall be lawful for the wife of such person to apply to a court of chancery for alimony, in the manner prescribed in the act concerning alimony; and the court to whom application is made, shall, on the production of a copy of the record of the judgment of the district court, decree alimony during his confinement, as in other cases. The infant children of such convict, shall, for and during the time of his confinement, be regarded as orphans, and shall have guardians appointed to them by the court of the county, and may be bound apprentices; and the whole proceedings, both with regard to them and the estate, shall be such as are directed by the act concerning guardians, infants, masters, and apprentices, passed in the year 1797. During the period of the confinement of any convict in the penitentiary, he shall be liable to be sued as if he never had been convicted, by a copy of the writ, warrant, or subpoena in chancery, with a copy of the bill, being delivered to the keeper of the penitentiary, whose duty it shall be immediately to deliver the same to the prisoner; the suit shall be commenced in the county where he claimed his

Infant children of a convict, considered as orphans, &c.

Convicts liable to be sued, and how.

residence before he was tried for the offence ; and a copy of the writ, warrant, or subpoena, shall also be left with his wife, or at his place of residence, if any he has ; and in all other respects the same proceedings shall be had against his estate as against that of other persons. And every convict confined in the penitentiary, shall have power, by his or her last will and testament, in writing, to devise his or her estate, in the same manner as if he or she had never been convicted ; and on his discharge therefrom, his estate, or so much thereof as hath not been legally disposed of, shall revert to him again ; and the time which he has been confined in the penitentiary, shall not, in any civil suit, be brought into account under any statute of limitations.

1802.

May by will devise his or her estate.

Sec. 6. So much of any former act as provides that a convict shall be sentenced to confinement in the solitary cells, for any certain part or portion of his time, is hereby repealed : but such convict shall at all times be subject to confinement therein, for misbehavior in the penitentiary. So much of the act to amend the penal laws, as directs that no convict shall have more than two meals of coarse meat in the week, is hereby repealed : and it shall hereafter be in the power of the inspectors, whenever they may deem it expedient, to allow them coarse meat or soup, on three days in the week : *Provided*, that such allowance does not increase the expenses of their maintenance.

Mode of victualling convicts.

Sec. 7. It shall be lawful for the inspectors to employ from time to time, any number of watchmen not exceeding four, who shall, in rotation, guard the penitentiary, and render such other services as the inspectors may direct, in conformity with such agreements as may be made between the said inspectors and the said watchmen severally. Should any prisoner escape whilst any watchman is on guard, such watchman and his securities, shall be liable to a fine of forty dollars, unless he can make it appear that he used all due exertions to prevent it, but was overpowered. But should it appear that any escape took place with the connivance of any watchman, such watchman shall be deemed a felon, and shall undergo a confinement in the penitentiary, for any period not less than one year, nor more than four years. The said watchmen shall be paid quarterly out of any monies which may be in the hands of the agent herein

Inspectors to employ watchmen, and their duty.

Punishment of watchmen for an escape of any convict, while on duty.

How the watchmen are to be paid.

1802. after mentioned, and such sums as may be due to the watchmen already employed, shall be paid out of the public treasury.

Governor to appoint an agent for the penitentiary, and his duty.

His salary, and how paid.

Allowance to clerk of inspectors.

The keeper, agent & watchmen to give bond to the governor instead of the county court.

Penalty of their bonds.

Sec. 8. It shall be lawful for the governor to appoint, from time to time, and to commission during good behavior, an agent to the penitentiary; whose duty it shall be to provide the several materials necessary for the employment of the convicts; to receive and take charge of the articles made or manufactured in the penitentiary; to dispose of them; to pay the watchmen, on order from the board of inspectors, and to discharge such other duties as they may require of him. He shall moreover keep a regular account of all receipts and expenditures taking place, in or on account of the penitentiary; for which purpose he shall keep a day-book, which shall be posted weekly, and laid before the inspectors at every meeting; and shall lay a general view of the whole, annually, before the legislature. Should there be at any time more money in his hands than may be thought necessary for the current expenses, he shall lodge it in the public treasury, to be there subject to the order of the board of inspectors. He shall act as clerk of the board of inspectors, and shall receive for his whole services, any sum which the inspectors may agree to allow him, not exceeding one hundred and fifty dollars, annually, of which seventy-five dollars shall be paid out of the public treasury, and the remainder out of the funds of the penitentiary. The present clerk to the inspectors shall receive in addition to the compensation allowed him by law, for services rendered, the sum of fifteen dollars, out of the public treasury.

Sec. 9. So much of the act to amend the penal laws of this commonwealth, as requires the keeper to enter into a bond in the county court, and as directs the inspectors to report to the said court, shall be, and the same is hereby repealed: *Provided, however*, that nothing herein contained, shall be so construed as to invalidate any bond heretofore given. And the said keeper, agent and watchmen, shall enter into bond with the governor, with securities, to be approved by the board of inspectors, in the penalty of two thousand dollars, in the case of the keeper and agent; and of four hundred dollars, in the case of the watchmen; upon condition that they shall respectively, well and faithfully perform the duties and

## XI. YEAR OF THE COMMONWEALTH.

77

trust in them reposed ; which bonds being executed before and certified by the said board, shall be legal evidence in any court of law. And should either of them fail to perform the trust and duties in them reposed, the penalty of their bonds respectively, shall be recovered on motion, by the attorney general, in the name of the governor, for the use of the penitentiary, before the general court, ten days previous notice of such motion having been given to such defaulter, the expense of which shall be defrayed by such defaulter, on judgment being entered against him ; in which manner, likewise, all penalties imposed by this act, may, and shall be recovered.

1802.

Sec. 10. The governor may at any time remove the said keeper, agent or watchmen, on the address of two thirds of the board of inspectors.

Sec. 11. And for the further support of this institution, and to insure a public application of fines recovered in behalf of the commonwealth ; *Be it further enacted*, That all such fines which may have been recovered and not paid into the public treasury, and which may hereafter be recovered under the authority of the act to amend the penal laws of this commonwealth, passed in the year 1798, or of the act to amend the same, passed in 1801, or of the present act, shall be paid into the hands of the agent of the penitentiary, and be by him duly accounted for. And the clerks of the several courts in which such fines may be recovered, shall every year in the months of August and September, transmit to the keeper of the penitentiary, under the penalty of three hundred dollars for failing so to do, an account of all the fines so recovered : and should the officer entrusted with the collection of them fail to pay, the same shall be recovered of him with fifteen per centum damages, on motion of the attorney-general as before directed.

Certain fines to be paid for the use of the penitentiary to the agent.

Duty of the clerks of the several courts.

Sec. 12. *And be it further enacted*, That it shall be lawful for the directors appointed to contract for and superintend the building of the penitentiary, to pay a balance due for the lots on which the same is built, out of the subscriptions received or to be received, for erecting the said building.

Directors to pay for lot out of subscriptions for building penitentiary.

Sec. 13. The inspectors of the penitentiary shall have full power and authority now, and at all future times, to

Inspectors may cause accounts

1802. *to be settled & recover sums due for articles manufactured.* cause a settlement of the accounts of the penitentiary to be made ; and shall be authorised to recover all sums of money due for work done in the penitentiary, or for articles sold which have been or may be made or manufactured there.

*How persons are punishable, for committing offences punishable by this act.* Sec. 14. Every person charged with any offence, which by virtue of this act shall be punishable by confinement in the penitentiary, shall be prosecuted in the same manner as persons accused of other felonies, and shall be kept therein agreeably to the provisions of law in other cases.

*Provisions as to prosecutions under certain acts of congress.* Sec. 15. And whereas it is provided by certain acts of the congress of the United States, that persons offending against the same shall suffer imprisonment, and be kept at hard labor during such imprisonment ; *Be it enacted,* That it shall be lawful for any court within this state, before whom such offenders may be convicted, to sentence them to confinement in the jail and penitentiary, subject to the same government and regulations as are or may be established with respect to other convicts ; and the keeper of the said jail and penitentiary is hereby authorised to receive them accordingly : *Provided, however,* That charges shall be raised against them similar to those which are raised against other convicts ; and should such charges exceed the proceeds of their labor, at the expiration of the period of their imprisonment, the surplus shall be placed to the account of the United States.

*Certain sections of former laws repealed.* Sec. 16. *And be it further enacted,* That the 17th, 22d and 39th sections of the act to amend the penal laws of this commonwealth, and so much of every act as comes within the purview of this act, shall be and the same are hereby repealed.

*No assistant keeper ; his salary added to that of the agent.* Sec. 17. *Be it enacted,* That there shall be no assistant keeper to the penitentiary ; and the salary of one hundred dollars that was allowed to him shall be added to the salary of the agent of the penitentiary ; and the agent shall assist the keeper of the penitentiary when required thereto.

This act shall commence and be in force from its passage.

CHAPTER XXXVI.

1802.

*An ACT for the relief of Settlers of this Commonwealth in certain cases.*

Approved December 21, 1802.

See the preface to Chap. 220, Vol. I.

WHEREAS it is represented to this general assembly, that certain persons, by mistake, have settled themselves upon military lands, supposing the same to be vacant, and have paid their money into the treasury for the same, and being since evicted therefrom by elder and better claims, and thereby have totally lost the land, their improvements and their money: for remedy whereof,

Preamble.

Sec. 1. *Be it enacted by the general assembly,* That if any person or persons whatsoever, who have heretofore, or shall hereafter, by mistake, settle themselves upon military or other lands, lawfully appropriated, and have paid or shall hereafter pay any money into the treasury, for such lands, it shall and may be lawful for the treasurer to allow any such person or persons all such sums of money, by way of credit for any other lands that such person or persons may have, or shall hereafter take up and improve by virtue of any law now in force for settling and improving the vacant lands of this commonwealth, upon producing a certificate from any court of record, that such person or persons have actually lost the land, and his, her or their improvements, as aforesaid; and every such court are hereby authorised to give such certificate, upon proper proof being produced to them, any law to the contrary notwithstanding.

Where settlements have, through mistake, been made on military claims.

Allowed a credit in the purchase of other lands.

Mode of proceeding thereon.

Sec. 2. *And be it further enacted,* That it shall be lawful for any person who has obtained a certificate for land by virtue of an act entitled "an act for settling and improving the vacant lands of this commonwealth," to survey the whole or any lesser quantity called for in such certificate; and such survey shall be recorded: but neither the said survey, nor the record thereof, shall be so construed as to vest any title in the owner, until a warrant shall be obtained therefor, and deposited with the surveyor according to law.

Survey may be made before a warrant is obtained.

This act shall be in force from its passage.

1802.

## CHAPTER XXXVII.

*An ACT to repeal the act entitled "an act concerning the Boundary Line between this State and the State of Tennessee."*

Approved December 22, 1802.

WHEREAS it appears to this present general assembly, that the act passed at the last session, entitled "an act concerning the boundary line between this state and the state of Tennessee," is defective, inasmuch as it provides that the boundary line between the said states shall be run agreeably to the chartered limits of the state of Virginia and North-Carolina; and it does not appear to us that any charter ever was granted, describing the limits of the last mentioned states respectively: therefore,

Sec. 1. *Be it enacted by the general assembly,* That the said recited act shall be, and the same is hereby repealed.

Sec. 2. *And be it further enacted,* That the executive of this state shall, as soon as possible, send a copy of this act to the governor of the state of Tennessee.

This act shall be in force from its passage.

## CHAPTER XXXVIII.

*An ACT authorising Mills to be built on the Beech Fork of Salt River, and for other purposes.*

Approved December 22, 1802.

*Vide preface to Chap. 42, Vol. I.*

Mills allowed  
to be built on  
Salt river, and  
the Beech fork.

SECTION 1. *BE it enacted by the general assembly,* That it shall and may be lawful for any person or persons to erect dams for the purpose of building mills on Salt river and the Beech Fork of Salt river, under the following constructions and regulations:—The owner or owners of every mill which has been or shall hereafter be erected or built on either of said streams, shall erect a slope in the dam of the following description: the slope shall extend down the stream twelve feet for every foot perpendicular height of said slope.

Slopes, how  
constructed,

Sec. 2. *Be it further enacted,* That the apron or slaunt of the slope shall be made of strong timber or stone, well and smoothly laid by a streight line from the upper to the lower end, closely and compactly made, so



as to confine the water therein ; and to confine the water on the slope there shall be a good and sufficient wall of stone or timber on each side thereof, so high as the dam on each side of the slope, and to extend down the slope one third of the length thereof.

1802.

Sec. 3. The slope shall always be erected in the main channel of the stream, and about the middle thereof ; and the dam on each side of the space from which the slope shall descend, shall be erected so high as will confine the water to pass through the space (which shall be at least fifty feet wide) when the river or stream is of a common navigable height, that is to say, when it does not exceed five feet in perpendicular height on an average over the ripples : and if any mill-dam shall be erected on either of said streams where an island stands in the river, a dam shall be erected over the small channel from the island, as well as the dam on each side of the space in the main channel, shall be made so high as to keep the water from running over them when the river does not exceed said height ; and there shall be, during the season for navigation, a sign or index suspended over the centre of the slope, for a guide for boatmen.

Where to be erected, and directions respecting them.

Sec. 4. *Be it further enacted*, That the further time of eleven months from the passage of this act shall be allowed the owners of mills now erected on said streams, to erect and complete their slopes agreeable to the provisions of this act.

Further time allowed to erect slopes in dams heretofore built.

Sec. 5. All dams hereafter erected shall have the slope completed with the dam ; and it shall be the duty of every owner or owners of a mill erected under this act, to keep his, her or their dam and slope in good repair, to clear away all drift-wood lodged against or about the slope, and also to cut down all leaning trees over the stream of the main channel within two hundred yards below the dam.

Slopes to be completed with dams.

Sec. 6. *Be it further enacted*, That he, she or they failing to comply with any of the regulations herein contained, for each failure shall forfeit and pay the sum of ten dollars, to the party injured by such failure, recoverable before any justice of the peace in this commonwealth, and moreover be subject to any damage the party or parties may sustain, to be recovered by an action on the case, in any court having jurisdiction thereof.

1802.  
 {  
 Penalty for fail-  
 ing to comply  
 with the regula-  
 tions.

Sec. 7. *Be it further enacted*, That the conditions herein contained shall be subject to the further amendments of the legislature as they in their wisdom may think most beneficial to the good people of this commonwealth: *Provided*, this act shall not be so construed as to affect any person or persons who have or may hereafter build mills on Salt river, above the mouth of Hammon's creek, nor on the Beech fork above the road leading from Springfield to Danville, nor shall it be so construed as to affect James Ryan or Joshua Ferguson's mills on the Beech fork.

This act shall commence and be in force from and after the passage thereof.

#### CHAPTER XXXIX.

*An ACT to amend an act limiting the number of Justices of the Peace in the several Counties of this Commonwealth.*

Approved December 22, 1802.

SECTION 1. *BE it enacted by the general assembly*, That the county of Mason shall be entitled to three justices of the peace; the county of Floyd two; the county of Barren two; the county of Cumberland two; the county of Lincoln two; the county of Logan four; and the county of Mercer two; in addition to the number now allowed them by law.

Sec. 2. *And be it further enacted*, That the several counties shall be entitled to the number allowed to them respectively by the said recited act, exclusive of the number allowed to the several county towns.

This act shall be in force from the passage thereof.

#### CHAPTER XL.

*An ACT concerning Clerks.*

Approved December 23, 1802.

Preamble.

WHEREAS it is represented to the present general assembly, that some of the clerks in this commonwealth receive considerable sums from the public treasury for services under the revenue laws which they do not perform; therefore,

## XI. YEAR OF THE COMMONWEALTH.

83

Sec. 1. *Be it enacted by the general assembly,* That no clerk shall hereafter be entitled to receive more than one dollar and twenty-five cents per day, for examining and certifying the commissioners' books; to which time he shall make oath in the same manner that the commissioners do to their account of services.

1802.

Fee for examining &c. commissioners' books.

Sec. 2. *And be it further enacted,* That no clerk shall hereafter ask or receive any fee for altering or correcting by the order of court any error in the commissioners' book, but shall certify the same to the sheriff without fee or reward.

Sec. 3. *And be it further enacted,* That no clerk shall hereafter charge any more than thirty-three cents for any writ of execution, together with all endorsements thereon made; any law to the contrary notwithstanding.

For executions.

Sec. 4. *And be it further enacted* That the clerk shall receive one dollar, and no more, for granting marriage license, and all the services attending the same.

For marriage licenses.

This act shall be in force from the passage.

### CHAPTER XLI.

*An ACT respecting the sales of Lands for the non-payment of Taxes.*

Approved December 23, 1802.

*Vide* Vol. I, Chap. 10, and the Notes.

*BE it enacted by the general assembly,* That the register of the land-office shall not dispose of any tract of land, the property of a non-resident, on account of any tax or taxes due thereon, until the first Monday in November, 1804; and the auditor shall not transmit to the register a list of such lands, nor shall they be advertised as heretofore in the year 1803: but when the tax that may be due upon any tract of land belonging to a non-resident, shall not be paid according to law, there shall be charged by the auditor fifty per cent. per annum thereon from the time such tax became due until the same be paid; and the said damages as well as the principal sum, shall operate as a lien upon the land, until the amount of the said tax with the damages aforesaid, be paid into the treasury.

Non-residents' lands not to be sold for taxes until 1804.

To pay 50 per cent, after due.

This act shall be in force from its passage.

1802.

## CHAPTER XLII.

*An ACT respecting the sales of Non-Residents' Lands.*

Approved December 23, 1802.

*Vide Vol. I, Chap. 10, and the Notes.*

Preamble.

WHEREAS it has been represented to the present general assembly, that at the sales of non-residents' lands for the payment of taxes heretofore held pursuant to the revenue law of this state, sundry persons have become purchasers, and afterwards failed or refused to make payment; and that no provision at present exists in said law to enforce such payment: for remedy whereof,

Manner in  
which purcha-  
sers are to pro-  
ceed.

Sec. 1. *Be it enacted by the general assembly,* That when any person shall become the purchaser of land, the property of non-residents, sold for taxes under the revenue law of this state, it shall be the duty of such person to take from the register of the land-office forthwith a certificate of such purchase, and of the taxes and costs due thereon, which certificate shall be immediately presented to the treasurer and the amount due paid into the treasury, also to obtain a *quietus* therefor from the register, by producing the treasurer's receipt for the payment aforesaid.

Penalty for fail-  
ure.

Sec. 2. *And be it further enacted,* That if any such purchaser shall neglect or refuse to comply with all or either of the regulations herein prescribed, such purchaser shall forfeit and pay fifty per cent. on the amount of the tax and costs, payable by him as aforesaid; and it shall be the duty of the register to recover the same by warrant before any justice of the peace of this commonwealth, who is hereby authorised to take cognizance thereof, any law to the contrary notwithstanding; and shall pay the same into the treasury, deducting ten per cent. for his trouble: and the said register is hereby directed to set up the said lands for sale as though it had not been sold.

Register not to  
permit persons  
to mark their  
names to pay  
taxes.

Sec. 3. *Be it further enacted,* That the register shall not permit any person to put or mark his name for the payment of the tax due on any tract or tracts of land; but in all cases where an agent or the owner of such tract or tracts, is desirous to pay the tax due, the register shall issue him a certificate forthwith to the treasurer, as is directed with respect to a purchaser.

Sec. 4. *Be it further enacted*, That the register shall not receive the bid of any person as a purchaser at the sales aforesaid, unless such person be of the age of twenty-one years, unless by an agent, which agent shall be accountable for the purchase money as is herein before directed.

1802.

Infants not permitted to bid.

This act shall be in force from its passage.

CHAPTER XLIII.

*An ACT to amend an act entitled "an act to establish Circuit Courts."*

Approved December 24, 1802.

*Vide ante Chap. 23, of this Volume.*

WHEREAS further regulations and provisions are necessary to carry the act to establish circuit courts into full and complete operation :

Preamble.

Sec. 1. *Be it therefore enacted*, That hereafter it shall be the duty of the attorney-general to attend the court of appeals, general court, ~~and~~ federal court for the Kentucky district, as counsel for the commonwealth, and shall give counsel to the different officers of government when called on for that purpose as heretofore ; and the said attorney-general shall receive for his services the sum of four hundred dollars annually out of the public treasury, in lieu of the former salary allowed him by law, to be paid quarterly.

Duty of the attorney-general, and his salary.

Sec. 2. *Be it further enacted*, That in all causes at law and in equity, where the title or boundaries of land shall come in question in the circuit courts, the attorney's fee, to be taxed in the bill of costs, shall be the same as has been allowed heretofore in the district courts, and in all other cases the same fee shall be allowed as heretofore has been in similar cases in the quarter session courts.

Attorney's fee in the circuit courts.

Sec. 3. *And be it further enacted*, That each circuit court shall, from time to time, appoint rule days, and the rules shall be taken in the clerk's office on the rule days, in the same manner and under the same regulations heretofore prescribed for the district courts.

Rule days, &c. in the circuit courts.

Sec. 4. *Be it further enacted*, That every clerk of a circuit court shall enter into bond with security, and renew the same for the faithful execution of the duties of his office, and proceedings shall be had thereon in the

Clerk to give bond and security.

1802. same manner and under the same regulations prescribed in the case of the clerks for the courts of quarter sessions.

Certain powers given to the general court.

Sec. 5. *Be it further enacted*, That the general court constituted by the act aforesaid shall have full power and authority to award execution and enforce all decrees and judgments which may have been or shall be entered in the present general court before the act takes effect, in the same manner as the present general court could have done had not the act been made for establishing circuit courts; and any cause now depending in any district court may by consent of the parties be adjourned to the general court established by said recited act.

Causes now depending may be adjourned to general court.

Circuit judges may award change of venue

Sec. 6. *Be it further enacted*, That the circuit judges to be appointed under the act aforesaid, shall have the same power to award a change of venue for the same causes and under the same regulations as the district judges would have had if the act establishing circuit courts had not been passed.

Act to establish circuit courts, when to commence.

Sec. 7. *And be it further enacted*, That the said recited act to establish circuit courts shall be in force from and after the passage of this act; and the circuit judges to be appointed by virtue of the said recited act, shall meet at the state-house in Frankfort on the fourth Monday in January next, and hold a general court in addition to the terms directed to be held by said act; and the said judges at the said January term shall act six judicial days if necessary, and shall appoint a clerk and make an allotment of the circuit courts which they shall respectively attend; which allotment shall be entered on the records of the court, and shall be in force until the next May term of said court, when another allotment shall be made according to the provisions and directions of the said recited act.

*C. H. 2000*  
7

Additional term of the general court.

The fourth section of the original act, how to be read and construed.

Sec. 8. *Be it further enacted*, That the fourth section of the said recited act shall be read and construed to all intents and purposes as if the word "court" followed the word "circuit" wherever the word circuit is made use of in said section.

Pendleton county added to the Harrison circuit,

Sec. 9. *And be it further enacted*, That the county of Pendleton shall be and is hereby added to the circuit court of the county of Harrison, any law to the contrary notwithstanding.

## XI. YEAR OF THE COMMONWEALTH.

-87

Sec. 10. *And be it further enacted,* That no clerk of the circuit court shall charge any fee for any service, unless such fee be expressly allowed by law; nor shall any clerk of any of the courts of this commonwealth charge for any copy, unless such copy be demanded by the party charged, his agent or attorney.

1802.

Rules as to  
clerks' fees.

*E. Court*

Sec. 11. *And be it further enacted,* That the assistant judges appointed under the said recited act, shall have for their services two dollars per day each, for each day they shall serve in court, and no more, to be certified by the clerk of their respective counties and paid as quarter session justices now are.

Compensation  
to the assistant  
judges.

How certified  
and paid.

*E. Court*

Sec. 12. *Be it further enacted,* That where the clerk of any circuit court shall give a certified copy of any decree, judgment, record or proceeding of any quarter session or district court, the papers and records of which courts, or either of them, may be delivered to him pursuant to the directions of the said recited act, the same faith and credit shall be given to such certified copy as to a certified copy of any record or proceedings of the circuit court to which such clerk may belong.

Records &c. of  
former courts,  
how to be au-  
thenticated, and  
the effect there-  
of.

Sec. 13. *And be it further enacted,* That the circuit judges to be appointed by the said recited act, shall have the same power to order bail to be taken on writs or other process which the judges of the district courts have heretofore had, and the assistant judges to be appointed by the said act, the same power which the quarter session justices have heretofore had.

Power of the  
judges as to or-  
dering bail to be  
taken.

Sec. 14. *And be it further enacted,* That the judges to be appointed by the before recited act shall severally be conservators of the peace; the said circuit judges throughout this commonwealth, and the assistant judges within their respective counties; and process may be taken out and executed in the same manner as is now the case in the district courts; and any assistant judge who shall neglect to act as such for six months together, shall vacate his office in the manner quarter session justices now do.

Judges to be  
conservators of  
the peace.

How process  
may be taken  
out and execu-  
ted.

*E. Court*  
How assistant  
judge may va-  
cate his office.

Sec. 15. *Be it further enacted,* That a circuit judge shall have power to take recognizance of special bail in any cause depending in any of the circuit courts, and any assistant judge shall possess the same power in any cause depending in the circuit court to which he belongs.

Judges may  
take recogni-  
zances of spe-  
cial bail.

1802.

Certain parts of  
all acts estab-  
lishing district  
courts repealed.

*C. are*  
And courts of  
quarter sessions.

*Care*

Circuit judges  
may license at-  
torneys.

Clerks may re-  
ceive proof, &c.  
of deeds.

*E. shall*

Clerks' offices,  
where to be kept

Penalty for fail-  
ure.

Offices how to  
be examined.

Allowance to  
clerks for sta-  
tionary.

In what jail  
criminals shall  
be confined.

*E. where*

Sec. 16. *And be it further enacted*, That so much of every act or acts as directs district courts to be held within this commonwealth, and judges to be appointed for said courts, and so much of every act as authorises any such district judge to receive any compensation out of the public treasury, shall be, and the same is hereby repealed; and so much of every act or acts as directs quarter session courts to be held in any county in this commonwealth in which circuit courts are directed to be held by the before recited act, shall be, and the same is hereby repealed.

Sec. 17. *And be it further enacted*, That any two of the circuit judges shall have power to grant license to persons as attorneys at law, under the same rules and regulations as heretofore.

Sec. 18. *Be it further enacted*, That the clerks of the circuit courts have the same power to receive the proof or acknowledgment of deeds out of court, as the district court clerks now have, and shall transmit to the clerk of the court of appeals, a list of all deeds for lands recorded by them, in the same manner as the clerks of the quarter session courts now do.

Sec. 19. *Be it further enacted*, That the clerk of every circuit court shall keep his office at or within one half mile of the court-house of the county in which the circuit court is held, so soon as the county court, a majority of all the justices of the county being present, shall provide a room for that purpose; and no clerk shall charge any fee for his services, so long as he shall fail to comply with the regulations of this act; and their offices shall be examined in the same manner as is directed by law with respect to the offices of the clerks of the quarter session courts.

Sec. 20. *Be it further enacted*, That the clerks of the circuit courts shall be entitled to a reasonable allowance for paper, books and presses, to be adjudged of and paid for in the same manner as is now directed with respect to the district court clerks.

Sec. 21. *Be it further enacted*, That when any person charged with a criminal offence, is directed by the said recited act to be removed to a circuit court, such offender shall be removed to the jail of the said circuit court, and there confined till discharged by due course of law.



Sec. 22. *Be it further enacted*, That the county jailor in each county where a circuit court is directed to be held, shall be the jailor of such circuit court, and shall have the custody of all prisoners committed to the jail of his county by the authority of such court, or for trial in the said court; and the judges of such circuit court shall have power to superintend and regulate said jail.

1802.

Jailors in the circuit courts,

Sec. 23. *And be it further enacted*, That the jailor of each county in which a circuit court is held, shall, during his continuance in office, be exempt from serving in the militia, and on juries; he shall attend on the circuit court held in his county, when required, and execute the commands of the court from time to time.

Exempted from militia duty & serving on juries.

Sec. 24. *And be it further enacted*, That if for the want of a sufficient jail in any county in which a circuit court is held, it shall be necessary to impress or hire guards for the safe-keeping of any prisoner in the said jail, a circuit court, or a judge thereof in vacation, shall have power and authority to order such jailor to impress or hire such guards, and the said court shall certify to the county court the amount of the allowance to said guards, which it shall be the duty of the justices of the county court to order to be paid out of the county levy.

How guards may be summoned.

And paid.

Sec. 25. *And be it further enacted*, That the laws now in force concerning the escapes of debtors and other prisoners committed to any county or district jail, shall be construed to extend and apply to the circuit jails.

Certain laws to be applied to circuit courts.

Sec. 26. *And be it further enacted*, That the clerk of any examining court which may be held in any county in which no circuit court is directed to be held, shall transmit a copy of the depositions and proceedings against any criminal ordered to be removed to the circuit court to which the said county belongs, to the commonwealth's attorney of such circuit court, within the time they have hitherto been directed to be transmitted to the attorney-general.

Duties of the clerks of examining courts.

Sec. 27. *And be it further enacted*, That the clerk of the Franklin district court, shall deliver all the papers, records and things belonging to his office, to the clerk of the general court; and the said general court shall have the same power to hear and determine all causes now before the said Franklin district court, and to enforce all judgments and decrees of the said Franklin district court, as the said Franklin district court

Records, &c. of the Franklin district, to be lodged in the general court.

And jurisdiction given over them.

1802.  
 The manner in  
 which suits may  
 be adjourned  
 from the dis-  
 trict to the ge-  
 neral court.

would have had if the before recited act had not been passed; and it shall be the duty of those persons who are at present clerks of the district courts, where the consent of both parties to the adjournment of a suit now depending in the said courts to the general court shall be produced, to deliver to such person as the said parties shall direct, the papers in such suit, which the said person shall give a receipt for, and shall deliver the said papers to the clerk of the general court within twenty days after the date of the said receipt, and on failure so to do, shall be subject to a penalty of five hundred dollars, to be recovered as in other cases.

How process  
 may be issued  
 until the first  
 term of the cir-  
 cuit courts.

Sec. 28. *And be it further enacted,* That the present clerks of the quarter session and district courts shall have full and complete power and authority to issue all process both in civil and criminal cases, until the first term of the circuit courts in the respective circuits, as the circuit court clerks shall possess when they shall be appointed; and the said district and quarter session clerks shall make such process returnable to the first day of the next circuit court to be held in his county, instead of the quarter session court, and in criminal cases to the said circuit court instead of the district court.

How returna-  
 ble.

Court of ap-  
 peals to certify  
 & remand cau-  
 ses to the cir-  
 cuit courts.

Sec. 29. *And be it further enacted,* That all the causes now depending in the court of appeals, which would by law be remandable to any district or quarter session court, shall be transmitted by the court of appeals to the circuit court of the county in which such district or quarter session court would have been held in case this act had not been passed, and such circuit court shall have the same power to proceed therein, as if such causes or proceedings had originated in such circuit court.

Allowance to  
 jailors.

And now paid.

Sec. 30. *And be it further enacted,* That each circuit court shall make a reasonable allowance to the jailor for his daily attendance on the court when required, not exceeding one dollar per day, which shall be certified to the auditor of public accounts and paid out of the treasury.

General court  
 to be a court of  
 record.

Sec. 31. *And be it further enacted,* That the general court shall have the same power to receive and record deeds and other instruments of writing as the court of appeals now has: and the clerk of the said general court

shall receive the acknowledgment or proof thereof in his office, in the same manner the clerk of the court of appeals now has, and shall transmit a list thereof to the clerk of the court of appeals, in the manner the circuit court clerks are directed by this act.

1802.

Sec. 32. *And be it further enacted,* That the time of holding the circuit courts and county courts in the county of Scott, shall be altered from the second Monday to the fourth Monday in each month, any law to the contrary notwithstanding. And that the circuit courts for the counties of Bourbon and Nicholas shall be held on the third Monday in November instead of the third Monday in August. And the circuit court for Harrison county shall be held on the first Monday in February, June and September. And the quarter session court for Bracken county shall be held on the fourth Monday in March, June and September. And the circuit court for Jefferson county shall be held on the first Monday in March, June and September.

Time of holding courts,

In Scott,

Bourbon,

Harrison,

Bracken.

Jefferson.

Sec. 33. *And be it further enacted,* That the assistant judges to be appointed under this act, shall reside within the bounds of the circuit to which they are appointed.

Assistant judges to reside in the circuit.

Sec. 34. *And be it further enacted,* That so much of the said recited act as is contrary to, or comes within the purview of this act, shall be and the same is hereby repealed.

Repealing clause.

This act shall commence and be in force from and after the passage thereof.

To commence.

#### CHAPTER XLIV.

*An ACT authorising the Governor to issue Writs of Election in certain cases.*

Approved December 24, 1802.

*BE it enacted by the general assembly,* That if any member of the senate shall, during the recess of the legislature, be desirous of resigning his seat, it shall be lawful for him to make such resignation to the governor: and the governor is hereby authorised and empowered, upon receiving such resignation, or upon receiving information of the death of any member of the senate, during the recess of the legislature, to issue a writ of

1802.

election to fill the vacancy occasioned by such death or resignation.

This act shall be in force from the passage thereof.

## CHAPTER XLV.

*An ACT concerning Writs of Error in certain cases.*

Approved December 24, 1802.

## Preamble.

WHEREAS great inconveniences and expense arises to the citizens of this commonwealth, by the frequency of writs of error issuing from the court of appeals on replevin bonds, and bonds for the forthcoming of property: for remedy whereof,

No writ of error or supersedeas to issue, only in certain cases.

Sec. 1. *Be it enacted by the general assembly,* That no writ of error, with or without a *supersedeas* shall issue to stay any judgment or execution on any such bond or bonds, for any error in such bonds, or in the sheriff or other officer taking the same, until the error thereof shall have been adjudged of by the court from which said execution first issued, or to which the return of such bonds were made.

Party aggrieved may have redress.

Sec. 2. *And be it further enacted,* That any person aggrieved by any such faulty replevin or forthcoming bond, or by any error of the sheriff or other officer in taking the same, may apply to the court from which the execution issued, on which the said bond was taken, by motion, having given to the opposite party ten days notice in writing of such motion, or may sue out a writ of error *coram vobis*, whichever his case may require.

Supersedeas may be obtained, &c

Sec. 3. The court, or any judge thereof, in vacation, may order the said writ of error to operate as a *supersedeas*, upon the party praying the same entering into bond in the clerk's office of the said court with sufficient security to be approved of by the said court or judge, as the case may be, with a condition for the payment of the sum due on the replevin or forthcoming bond, as the case may be, with such damages and costs as may be awarded if the said writ of error should be dismissed or discontinued, or the judgment affirmed in part or in the whole.

When a motion to amend or quash a reple-

Sec. 4. Every motion to quash or amend a faulty replevin or forthcoming bond, shall be made at any court to be held after the return of the said bond to the

office of the said court, to the time of issuing the first execution on such bond, or at the first court to be held next after the issuing of such execution, but at no time thereafter.

1802.

Writ of error shall be made.

Sec. 5. Every writ of error *coram vobis* shall be issued returnable to the first day of any court held after the return of such bond to the office of the said court, or to the first day of the court to be held next after the issuing the first execution on such bond, and to no court thereafter; and shall be put on the issue docket of the court to which it is returned, before the common law issues, and shall be tried during the term to which it is returned, and if a trial is not had at the said term (except where no court is formed during the term) it shall at the expiration of the said term stand *ipso facto* dismissed, and the same proceeding by execution be had as would have been had no writ of error been sued out.

Writ of error *coram vobis* returnable to the first day of the next term, and how docketed.

Sec. 6. In all cases when a writ of error is made a *supersedeas*, whether the same be issued from the office of the court of appeals or of any other court, if the judgment or decree to reverse which the writ of error is sued out be affirmed, or the writ dismissed or discontinued, the plaintiff in error shall pay to the defendant ten per centum damages on the sum due on the said judgment or decree.

Ten per cent damages on all judgments affirmed, dismissed, &c.

Sec. 7. The provisions in this act contained, respecting writs of error on replevin or forthcoming bonds, shall not be construed to deprive the court of appeals of jurisdiction over all cases of writs of error, which have been sued out to reverse the judgment on such bonds, or may be sued out previous to the commencement of the next term of said court.

This act shall commence and be in force from the passage thereof.

CHAPTER LXVI.

An ACT for the appropriation of Money.

Approved December 24, 1802.

CHAPTER XLVII.

An ACT for the benefit of Hendley Russell.

Approved December 4, 1802.

As jailor of Logan county, he was entitled to an auditor's warrant for 120 dollars 80 cents—he had obtained one and lost it. This act authorized issuing a new one.

## NOVEMBER SESSION,

1802.

## CHAPTER XLVIII.

*An ACT for the relief of the Sheriff of Livingston County.*

Approved November 23, 1802.

This act allowed him nine months longer to complete his collections.

## CHAPTER XLIX.

*An ACT for the relief of Agness Summers, widow of John Summers, deceased.*

Approved December 20, 1802.

This act allowed her compensation for an horse which had been impressed from her husband for the Wabash expedition, of 1786.

## CHAPTER L.

*An ACT for the relief of William Lewis, Sheriff of Jessamine County.*

Approved December 21, 1802.

This act allowed him six months longer to make payments into the treasury.

## CHAPTER LI.

*An ACT for the benefit of the heirs of Solomon Davis, deceased.*

Approved December 13, 1802.

This act authorized them to receive the price of a slave sentenced to death before the passage of the act of 1801, (*Vide Vol. II, chapter 344, ante*) but executed afterwards.

## CHAPTER LII.

*An ACT for the relief of Joseph M'Clintock.*

Approved December 13, 1802.

He had been appointed one of the executors of Daniel M'Clintock, and guardian to his children, and had given security; but had since become blind. In consideration of which, this act exonerated him from the future duties and responsibility of the trusts.

## CHAPTER LIII.

*An ACT to amend the act entitled "an act for altering the time of holding Courts in this Commonwealth," so far as respects the County of Franklin.*

Approved November 19, 1802.

The occasion of passing this act, was a variance in the recited act, between the engrossed and enrolled bills, as far as respected the courts in Franklin.

This act confirmed the proceedings which had taken place under it, provided that it should not avail as an assignment of error, directed when courts should be held in future, and gave an additional term. These last provisions, however, were superseded by the passage of the circuit court law.

1802.

CHAPTER LIV.

*An ACT authorising the payment of a certain detachment of Militia.*

Approved November 23, 1802.

Some Indians had come into Livingston county and stole horses; in consequence of which, the colonel commandant ordered out the detachment of militia, for the payment of whose services and rations, this act provided.

CHAPTER LV.

*An ACT for the benefit of John Metcalf.*

Approved December 1, 1802.

He had been security for the sheriff of Bourbon, who had become insolvent; and Metcalf, as this act says, had been compelled to pay the whole of the arrearages. Morrow, in his settlement with the auditor, had offered a warrant, which the auditor refused to admit, under an impression that it had been altered from 60 dollars to 80 pounds. This act entitled Metcalf to the benefit of said warrant, as one of 60 dollars.

CHAPTER LVI.

*An ACT to provide for opening a Road from Richmond, in Madison County, to Goose Creek Salt-Works, and from Pulaski to said works, and to Outlaw's.*

Approved December 21, 1802.

This act appointed commissioners, empowered them to raise money by subscription, and recover it by motion.

CHAPTER LVII.

*An ACT for establishing the Seat of Justice for the County of Bracken.*

Approved December 21, 1802.

This act fixed on Augusta, as the seat of justice, and directed the county court to proceed to erect the public buildings.

CHAPTER LVIII.

*An ACT for the relief of Samuel Todd's heirs.*

Approved December 7, 1802.

Flour and whiskey of Samuel Todd's, of the value of 1061 dollars, had been impressed for the Wabash expedition. This act directed payment, with interest from the 21st of December.

1802.

## CHAPTER LIX.

*An ACT for the relief of John Bland.*

Approved December 13, 1802.

He was deaf, and dumb, and poor, and unfortunate, and unable to maintain his wife and children. In consideration of which, this act gave him 160 acres of land, in Cumberland county, on which he had settled himself; with a proviso that he should not aliene it, but that it should descend to his heirs.

## CHAPTER LX.

*An ACT for the benefit of Zachariah Price.*

Approved December 13, 1802.

This act authorised him to return one Green river land warrant, and take out another for the same quantity. The motives which induced, or the end to be effected by this proceeding, are not mentioned.

## CHAPTER LXI.

*An ACT to vest a part of the Land of which Brackett Owen died seized, in Trustees of the town of Shelbyville, for the benefit of his representatives.*

Approved December 1, 1802.

## CHAPTER LXII.

*An ACT authorising Commissioners to sell part of the Land of which John Elliott died seized and possessed.*

Approved December 3, 1802.

This act appointed commissioners to sell 200 acres of land, upon the widow's relinquishing her right of dower therein, to purchase two negroes, whose services were to be applied to the support and education of the infant children.

## CHAPTER LXIII.

*An ACT altering the time of holding Courts in the Counties of Shelby and Henry.*

Approved December 24, 1802.

## CHAPTER LXIV.

*An ACT providing for the flooring of the Register's and Treasurer's offices.*

Approved December 21, 1802.



## XI. YEAR OF THE COMMONWEALTH.

97

### CHAPTER LXV.

1802.

#### *An ACT for the benefit of John Jameson's heirs.*

Approved December 22, 1802.

This act appointed commissioners to sell a mill and three acres of land, the property of the heirs; because the dam was incomplete, and they had no funds to finish it; and directed two-thirds of the money arising from the sale to be put out to interest, for the use of the heirs; and that the widow might have the use of the other third during her natural life, on giving bond, with security, to have it forthcoming at her death, to be equally divided among the heirs. The commissioners were required to give security for the faithful discharge of the trust reposed in them.

### CHAPTER LXVI.

#### *An ACT for the benefit of the heirs and devisees of Robert Patterson, deceased.*

Approved December 16, 1802.

Robert Patterson was entitled to an entry for 3000 acres of land on Green river, and sometime before the expiration of the law for making such surveys, he was murdered in Virginia. This act allowed his heirs and legatees to survey it, within twelve months from the passage of this act.

### CHAPTER LXVII.

#### *An ACT to amend the act concerning Philips and Samuel Caldwell.*

Approved December 1, 1802.

This act alleged that doubts had arisen under an act concerning Philips and Samuel Caldwell, whether they could obtain a patent for the land therein mentioned, until the expiration of seven years. It therefore provides that they may obtain a patent whenever they will return a plat and certificate of survey, and pay into the treasury 1000 dollars.

### CHAPTER LXVIII.

#### *An ACT for the relief of John Campbell.*

Approved December 20, 1802.

This act allowed him 7 dollars and 50 cents, for services on the Wabash expedition.

### CHAPTER LXIX.

#### *An ACT for the relief of Richard Turner.*

Approved December 20, 1802.

He had levied two executions at the suit of the commonwealth against William Morrow; which executions had been staid by *superfedeas*. This act allowed him half commission,

1802.

## CHAPTER LXX.

*An ACT authorising the appointment of Commissioners to settle the claims of the creditors of Jacob Myers, deceased.*

Approved December 20, 1802.

His executors having refused to undertake the executorship, this act authorised the county courts in which his creditors resided, to appoint three commissioners to state and certify to the clerk of quarter session court, the accounts which might be brought before them. It required ten days notice to be given to such of the heirs as resided in the state, of the application for the appointment of commissioners, ten days notice of the time of the meeting of the commissioners for the adjustment of the claims; and that the commissioners should advertise, at the door of their court-house, the time and place of their meeting, at least one month previous thereto; and required them to take an oath to the impartial and faithful execution of their duty.

## CHAPTER LXXI.

*An ACT to legalise the proceedings of the County Court of Muhlenberg County.*

Approved December 16, 1802.

The proceeding legalised, was an irregularity in laying the levy.

## CHAPTER LXXII.

*An ACT legalising the proceedings of Boone County Court, and altering the court day thereof.*

Approved December 13, 1802.

The proceeding legalised, was sitting on days not authorised by law.

## CHAPTER LXXIII.

*An ACT to repeal an act entitled "an act authorising a Lottery in the Town of Millersburg."*

Approved December 22, 1802.

The repeal contained a proviso that the purchasers of tickets should have the same remedy for the recovery of the purchase money, as if the repealing act had not passed.

## CHAPTER LXXIV.

*An ACT for fixing the seat of justice for Gallatin County, and altering the time of holding Courts therein.*

Approved December 16, 1802.

This act fixed the seat of justice at Port-William,

## XI. YEAR OF THE COMMONWEALTH.

99

### CHAPTER LXXV.

1802.

*An ACT to legalise the proceedings of the County Courts of Nelson and Montgomery.*

Approved December 1, 1802.

Certain justices had received *pro tempore* commissions, which had expired before they were re-commissioned, with a confirmation by the senate; but in the interim, they had acted in court as justices. This act legalised their proceedings.

### CHAPTER LXXVI.

*An ACT directing a sale of certain tracts of Land of which James Smith died possessed, for the benefit of his children, and for other purposes.*

Approved December 22, 1802.

The other purposes were the payment of a debt of £167.

### CHAPTER LXXVII.

*An ACT respecting the Costs arising in the prosecution against Elijah Craig.*

Approved December 22, 1802.

As a justice of Gallatin county, he had been prosecuted by Martin Hawkins, before the legislature, and the governor addressed for his removal. This act provided that the commonwealth should pay Hawkins's costs, and that Craig should pay his own—that his witnesses might recover it on warrant, or motion in court, according to the amount; and that the certificate of the clerk of the committee, or of the assembly, should be evidence of attendance.

### CHAPTER LXXVIII.

*An ACT to appoint Commissioners to convey a certain tract of Land to the heirs and legatees of Matthews Flournoy, deceased.*

Approved December 16, 1802.

This act appointed commissioners to convey a tract of land from the heirs of William Christian to the heirs of Matthews Flournoy. The act says that no deed can be made without the interposition of the legislature, because one of Christian's heirs was an infant.

### CHAPTER LXXIX.

*An ACT concerning the Seat of Justice in Nicholas County.*

Approved December 20, 1802.

This act appointed five commissioners by name, and required them to fix on some place adjoining the great road leading from Paris to Limestone.

## NOVEMBER SESSION,

## CHAPTER LXXX.

*An ACT for the relief of Walter Brashear and others.*

Approved December 23, 1802.

Walter Brashear was, by assignment, the proprietor of a right of survey for 400 acres, under the Virginia act for the relief of poor persons; but owing to an unfounded opinion that the land was covered by another claim, no survey had been made. This act permitted one still to be made.

Samuel Gill and John Strother had a location for 102,912 acres of land, lying in Jefferson, which they had lately discovered to have never been surveyed. This act permitted a survey yet to be made.

## CHAPTER LXXX.\*

*An ACT for the relief of Henry Brock.*

Approved December 20, 1802.

He was proprietor of a certificate for about 30 pounds, granted to John Holder, for services in the Wabash expedition, and had lost it. This act authorized the renewal of it.

\* The number of acts in this session is 81, but it stands 80 in the session acts. Two acts there, are printed under the number 6, and two here, under the number 80.

## November Session, 1803.

## CHAPTER LXXXI.

*An ACT to amend the act entitled "an act concerning the Court of Appeals."*

Approved November 24, 1803.

Vide prælection to Chap. 24, Vol. I.

SECTION 1. *BE it enacted by the general assembly,* That the court of appeals shall have power, as often as it may be expedient, to adjourn for any number of days not exceeding fifteen, and then again to proceed on the business of the court.

Sec. 2. *And be it further enacted,* That during such recess of the court, any judge thereof may direct that a writ of error about to be sued out, shall operate as a *supersedeas*.

This act shall commence and be in force from and after the passage thereof.

## XII. YEAR OF THE COMMONWEALTH.

101

### CHAPTER LXXXII.

1803.

*An ACT to amend an act entitled "an act establishing the Winchester Academy."*

Approved November 30, 1803.

WHEREAS it appears to the present general assembly, that agreeable to an act entitled "an act for establishing the Winchester academy," it is provided that the trustees of said academy, shall hold two annual stated meetings; and it is also provided, that if any of said trustees shall absent himself successively from three stated meetings, unless for good cause shewn, his seat shall be considered as vacant; and whereas it is represented that the whole of the trustees of said academy have vacated their seats by non-attendance as aforesaid: therefore,

Sec. 1. *Be it enacted by the general assembly,* That the trustees of the said Winchester academy shall be, and the same are herein reinstated and appointed as trustees of said academy, in like manner as if their seats had not been vacated.

Sec. 2. *And be it further enacted,* That so much of the said recited act as directs that the trustees shall hold two meetings annually, shall be and the same is hereby repealed; and in future said trustees shall hold only one stated meeting, which shall be held on the first Monday in May, at which time the trustees shall fix on their stated meeting, subject to the alteration of the board at any time.

This act shall be in force from and after the passage thereof.

---

### CHAPTER LXXXIII.

*An ACT to amend an act concerning the killing of Wolves.*

Approved December 1, 1803.

*BE it enacted by the general assembly,* That every person who shall kill or cause to be killed or destroyed, any wolf in any county within this commonwealth, shall receive one dollar for every wolf he shall kill or destroy, not exceeding six months old, to be adjudged of by the justice before whom the head shall be taken; and for any wolf above the age of six months

1803.

old, two dollars ; the money shall be paid by the county, as the above recited act now directs.

So much of every act or acts, allowing any other or further compensation for killing wolves, shall be and is hereby repealed.

This act shall be in force from its passage.

#### CHAPTER LXXXIV.

*An ACT to provide for transcribing certain books in the Surveyor's Office of Lincoln County.*

Approved December 1, 1803.

WHEREAS it is represented to the general assembly, that there is two books of surveys in the surveyor's office of Lincoln county, that from wear and other circumstances are in such condition, that it is with difficulty that copies can be taken from them with accuracy : for remedy whereof,

Sec. 1. *Be it enacted by the general assembly,* That it shall be the duty of the surveyor of Lincoln county, to make a fair and true transcription of the aforesaid two books of surveys, into a book well bound in leather, to be provided by the said surveyor ; and he shall be allowed the sum of twelve and one half cents for each plat and certificate of survey by him transcribed, and also, the sum by him expended in procuring the books before directed ; and the said surveyor shall after he has completed the said duty, certify to the Lincoln county court that he has made a true and fair transcription of the aforesaid two books of surveys into a book as aforesaid, and also the number of plats and certificates of surveys by him so transcribed, and the amount of money by him expended for said book ; and the said county court of Lincoln, shall certify the same to the auditor of public accounts, whose duty it shall be to issue a warrant for the amount due, which shall be paid out of any money in the public treasury.

Sec. 2. *And be it further enacted,* That copies from the said book so transcribed shall be as legal evidence as copies from the original books are now in all respects whatever. And the original books shall be lodged in the register's office, by the surveyor of said county ; and it shall be the duty of the register to assist the surveyor in comparing said transcript with the originals.

This act shall be in force from its passage.

## CHAPTER LXXXV.

1803.

*An ACT erecting an Election Precinct in Barren County.*

Approved December 1, 1803.

*BE it enacted by the general assembly,* That all that part of the county of Barren lying within the following bounds, viz. beginning on Cumberland county line, opposite Moses Dooley's, thence to the head of Glover's creek, thence down said creek to the mouth, thence to M'Cormack's on Warren county line, including the said M'Cormack, shall compose one district, and shall be called and known by the name of Sulphur precinct. Elections shall be held for said precinct, at the house of Thomas Flipping, by the sheriff of the county of Barren or one of his deputies, at the same time and in like manner as elections are by law directed to be held; and the voters in the residue of the county of Barren shall vote at the court-house of said county as heretofore. The county court of the aforesaid county shall from time to time appoint judges and clerk to attend elections in said precinct, in like manner as the law directs in similar cases, and on failure of such court so to do, or non-attendance of the said judges and clerk, or either of them, the sheriff shall fill such vacancy: the said judges, clerk and sheriff shall be entitled to the same allowance, to be paid in the like manner, and be subjected to the same penalties as is directed by law in similar cases. The sheriffs attending each of the elections in the said county of Barren shall meet at the court-house of said county on Saturday next succeeding the close of the said elections to compare their respective polls, and after ascertaining by faithful addition and comparison, the person or persons who are duly elected, shall give a certificate thereof to each person elected and make return thereof in the manner prescribed by law.

## CHAPTER LXXXVI.

*An ACT concerning Drill Musters.*

Approved December 17, 1803.

See observations on Chap. 17, Vol. I.

1803.

## CHAPTER LXXXVII.

*An ACT concerning the Town of Maysville.*

Approved December 1, 1803.

- Trustees to be elected, when, and by whom.** SECTION 1. *BE it enacted by the general assembly,* That it shall be lawful for all free white male inhabitants of the town of Maysville, and those within one quarter of a mile of said town, aged twenty-one years or upwards, to elect annually on the first Monday in March, seven trustees; the first election shall be conducted by two of the magistrates of Mason county, to be appointed by the county court of said county for that purpose, and ten days previous notice thereof shall be given by the magistrates so appointed in the most public places in said town; and the return of persons so elected shall be made to a clerk to be also appointed by the said county court, *pro tempore*, and by him recorded in a journal to be provided for that purpose; in all future elections the election shall be conducted by one or more of the then acting trustees to be appointed for that purpose, and ten days previous notice thereof shall be given by the chairman of said board in the most public places in said town; and the return of persons so elected shall be made to the clerk of said board, and by him recorded in their journal. The said trustees before they proceed to business shall take an oath to discharge the duties of their office as trustees, without favor, affection or partiality; and the clerk of said board shall have power to administer oaths to any person or persons coming before the board under the directions of this act.
- To take oath.** Sec. 2. No person shall be capable of being elected, or of acting as a trustee, who is not a freeholder and an inhabitant of said town. All vacancies occasioned by death, resignation, or otherwise, of any of the trustees aforesaid, shall be supplied by an election to be holden as aforesaid, on some day to be named by the board.
- Qualification of trustees.** Sec. 3. The said board shall appoint a clerk, who shall hold his office until the next annual election for trustees, but for good cause may be removed: and the clerk so appointed, before he enters on the duties of his office, shall take an oath, to be administered by the chairman of said board, that he will, to the best of his skill and ability, make true entries of the proceedings of said board, and that he will safely keep the books and
- Vacancies, how filled.**
- Clerk to be appointed.**
- To take oath.**



papers given him in charge ; and shall moreover acknowledge himself responsible to said board for any neglect or malfeasance of office ; and an entry thereof shall be made on the journal of said board.

1803.

Sec. 4. The said trustees shall have power to levy and enforce the collection of a tax not exceeding two hundred dollars annually, on the titheables and property both real and personal within the said town and limits, and shall have a lien on such property until the tax thereon be paid, and shall apply the said tax to such purposes as they shall deem proper for the benefit of said town.

Power of the trustees to levy tax.

Sec. 5. The said trustees shall, on or before the first day of May, annually, appoint a commissioner for the purpose of procuring a list of each individual's property lying or being in the said town ; which said commissioner, before he begins to exercise the duties of his office, shall make oath before some justice of the peace, that he will to the best of his skill and ability, without favor, affection or partiality, discharge the duties hereby enjoined him, that is to say, he shall on or before the first day of June proceed without delay to call on each person resident within the said town or limits, or holding a lot or lots or other property therein, or his or her agent (if any such there be) for a written list of his or her property ; which being corrected (if necessary) and distinctly read over by the commissioner to the person delivering the same, he or she shall make oath or affirmation, to be administered by the said commissioner, to the truth of such list ; and the said commissioner shall value the property so listed, and note the amount of such valuation in such list ; and in case of neglect or refusal on the part of the person so called upon to give a list of his or her property as aforesaid, or in case of a person holding property in said town, but residing without the limits thereof and having no agent therein, it shall be lawful for the commissioner to make out a list thereof from the best information he can procure, and to fix the valuation thereof as before mentioned, which list shall on or before the fifteenth day of June be returned by such commissioner to the board of trustees, who may proceed immediately to apportion the tax to be collected agreeably to the valuation aforesaid : *Provided, however,* that if any person shall conceive him-

To appoint a commissioner.

Who shall take an oath.

His duty.

Trustees to apportion the tax.

1803.

Appeal to the trustees, in what cases allowed.

Penalty for a false or fraudulent list.

self or herself aggrieved by such valuation, he or she may appeal to the board of trustees at their next meeting, who shall, if they see cause, reduce the estimate of such valuation; and if any person when called on by the commissioner, shall give or deliver a false or fraudulent list, he or she shall be liable to a fine of ten dollars, and to pay triple tax, to be sued for, recovered and applied as hereafter directed.

Titheables to work on streets.

Surveyor to be appointed, and his duty.

Penalty for failing to attend the surveyor, & to labor.

Penalty on the surveyor for neglect of duty.

Inhabitants exempted from working on other roads.

Horse racing, &c. prohibited.

Penalty.

Collector to be appointed, and his duty.

Sec. 6. The trustees shall have power to call on the male titheables of said town, for the purpose of working on the streets and roads leading from the several landing places on the Ohio river, and for removing nuisances under the superintendence of a surveyor or overseer to be appointed by said board, whose duty it shall be when directed by the board to call upon the said titheables to to meet on some day at a certain place, with proper tools for the purposes aforesaid; and every such person failing to attend so equipped, or who shall refuse to labor under the direction of said surveyor or overseer, or to find some person equally able to work in his room, provided he hath three days notice of the time and place aforesaid, shall be liable to pay the sum of one dollar and twenty-five cents, to be sued for, recovered and applied as hereafter directed; and if the surveyor so appointed and accepting said appointment, shall fail or refuse to comply with the duties hereby required of him, he shall be liable to be fined in the sum of five dollars and be displaced from his office, which fine shall be sued for, recovered and applied as hereafter directed; and the inhabitants of said town shall not be compelled to work on any road more than one half mile out of the limits thereof.

Sec. 7. Any person who shall be guilty of running or racing horses in the streets, playing or throwing bullets, or shooting at marks within the in-lots of said town; such person shall for every such offence, if a white person, forfeit and pay the sum of five dollars, to be sued for and recovered as hereafter directed; and if a slave, shall be whipped at the discretion of a justice of the peace, not exceeding fifteen lashes.

Sec. 8. And the said trustees when they have laid and apportioned the tax on the property assessed and valued as aforesaid, shall appoint a collector, whose duty it shall be to collect and account for such tax, within

three months after a list of the same shall be put in his hands ; and if any person shall refuse to pay the same, the said collector shall have power to seize and sell so much of his property as will be sufficient to make the tax by him or her due ; and the collector shall deliver the money so collected, to the trustees or the person who may be appointed by them to receive it, deducting therefrom such compensation for his services, as the said board shall have agreed to pay him : *Provided, however,* that before the said collector shall proceed to business he shall give bond with sufficient security, payable to the trustees, in the penalty of five hundred dollars, for the faithful discharge of the duties of his office, and should he fail to comply with the conditions of said bond, the county court of Mason county, which is hereby specially authorised and empowered, may on application or motion of the chairman of said board, give judgment and award execution against said collector for such sum or sums, with ten per cent. damages on the same.

1803.

To give bond,  
&c.

Sec. 9. *And be it further enacted,* That from and after the first day of March next, no person shall be permitted to keep or raise hogs within the limits of said town, unless they be kept up in a pen or sty, which pen or sty shall not bind on nor be contiguous to any street in said town : if any hogs are found going at large, after the said first day of March next, belonging to any inhabitant of said town, the owner or proprietor thereof shall be liable to a fine of one dollar per day, for each hog which he may suffer thus to run at large ; which fine shall be sued for, recovered and applied as other fines mentioned in this act.

Hogs prohibit-  
ed from running  
at large.

Penalty.

Sec. 10. The trustees aforesaid shall have power to make any by-law or laws, rules and regulations, for the government of the market, for the internal government of the said town generally, as they may deem expedient, not inconsistent with provisions contained in this act, or the constitution of this state, or of the United States ; and they are hereby empowered to lay such fine or fines, not exceeding fifteen dollars, for a breach or breaches of said by-law or laws, rules and regulations aforesaid, as they shall think or deem proper ; and all fines by them imposed, together with such as are pointed out in the provisions of this act, shall be sued for in the name of

Power of the  
trustees to make  
by-laws, &c.To levy fines  
in certain cases.Fines how to  
be recovered &c.  
appropriated.

1803. { the board of trustees for the town of Maysville, under their direction, or directions of some person appointed for that purpose, for the benefit of said town, as they shall deem expedient.

To commence. This act shall commence and be in force from and after the passage thereof.

#### CHAPTER LXXXVIII.

*An ACT to amend the act entitled "an act directing the method of proceeding in Courts of Equity against absent Debtors, or other absent Defendants, and settling the proceedings on Attachments against absconding Debtors."*

Approved December 22, 1803.

See the prelection to Chap. 23, Vol. I, and Chap. 281.

SECTION 1. *BE it enacted by the general assembly,* That so much of the said recited act as requires that a copy of the order of publication therein mentioned, directed to be made against the absentee, shall be posted up at the front door of the court house, and that another copy shall be published on some Sunday immediately after divine service, at some church or meeting-house door, be, and the same is hereby repealed.

Sec. 2. *And be it further enacted,* That a certificate of the printer in whose paper the said order shall have been published agreeably to the said act, that it has been so done, together with a copy of said publication, shall be deemed and held sufficient evidence of that fact. *then*

This act shall commence and be in force from and after its passage.

#### CHAPTER LXXXIX.

*An ACT respecting Fugitives from Justice.*

Approved December 6, 1803.

SECTION 1. *BE it enacted by the general assembly,* That any person who may be charged with committing felony, in any other state or territory of the United States, and take refuge in this state, on the demand of such state or territory, of such fugitive, it shall be the duty of the executive of this state to issue his warrant or proclamation, directing some justice of the peace to issue

Governor to order the apprehension of fugitives.

his warrant, and cause the said fugitive to be brought before him; and if it shall appear to said justice that the person so brought before him is the person described in the governor's warrant or proclamation, he shall commit him to prison, and issue his warrant to summon a court of examination, to meet at any time within 20 days, and not less than 5 days; which examining court shall proceed in the same manner as against a person charged with felony in this commonwealth, so far as it shall be necessary to ascertain the identity of the person demanded, and if it shall appear to such court that the fugitive is the person demanded as aforesaid, they shall immediately give notice thereof to the governor of this commonwealth, under the hand and seal of their clerk, who shall cause such fugitive to be delivered to any person authorised by the executive of the state or territory from which he had fled; and the agent authorised as aforesaid, on the reception of such fugitive, shall pay all costs and expenses incurred in apprehending, securing, and trial of such fugitive: *Provided always*, that if such fugitive is found to be the same person demanded by the executive as aforesaid, by the examining court, he shall be remanded to jail, and safely kept until demanded by the agent of the executive of said state or territory: *Provided also*, that such demand be made in six months from the time of the arrest.

Sec. 2. *And be it further enacted*, That when any person suspected of committing felony in this state, and shall escape to any other state or territory within the United States, it shall be the duty of any justice of the county in which such felony was committed, to issue his warrant to cause the necessary witnesses to come before him; and if on examination of said witnesses, it shall appear to such justice that the person charged is guilty of the felony alleged to be committed by him, the said justice shall issue his warrant, directed to the sheriff of his county, to summon a court of examination, to enquire whether the person charged is guilty of the offence; and the like mode of proceeding shall be observed by the justice, sheriff and court, as is by law directed in similar cases; and if the person charged, shall be personally present, and if it shall appear to such court, that he is guilty, they shall immediately, and without delay, give notice thereof to the governor of this state, under the

1803.

Who shall be identified by an examining court

Person applying for fugitives to pay costs.

Proviso.

Proceedings against persons flying from the justice of this state.

1803. hand and seal of their clerk, describing as near as possible, the size, age and complexion of said fugitive ; and it shall be the duty of the governor to demand such fugitive of the governor of such state or territory, and appoint some person as agent to receive such fugitive.

Governor to demand them from the executives of other states.

Agent may hire a guard.

Their compensation.

Fugitives to be delivered to the sheriff, &c. of the county where the offence was committed.

Sec. 3. The agent appointed as aforesaid, shall possess full authority to hire a sufficient guard, at the expense of this state, not exceeding two persons, at one dollar and fifty cents each per day, to assist in transmitting the fugitive to the county in which he is charged with committing the felony ; and such agent shall deliver the said fugitive to the sheriff or jailor of said county, who shall keep him safely until otherwise disposed of, agreeably to law ; and such sheriff or jailor, shall, without delay, give notice to some justice of the peace for said county, of the reception of said fugitive ; and the said justice shall issue his warrant to the sheriff, to summon a court for the examination of such fugitive ; and the same proceedings shall be had, and the like rules and regulations observed in the commitment, examination and trial of such fugitive, as are now directed by law, and as if he had not escaped.

Advance of money to the agent.

Sec. 4. *And be it further enacted*, That when the governor shall appoint an agent as aforesaid, it shall and may be lawful for said governor to direct the auditor to issue a warrant on the treasurer, in behalf of said agent, for any sum of money not exceeding one hundred dollars, to defray the expenses of apprehending, securing and transmitting such fugitive to this state ; and the auditor shall issue his warrant accordingly : and the said agent shall, as speedily as possible, after the delivery of such fugitive to the sheriff or jailor of the county from which he escaped, render an account on oath to the auditor of the expenses incurred by apprehending, securing and transmitting the said fugitive ; and if a surplus remains of the sum received by the agent, he shall pay the same into the treasury, and take the treasurer's receipt therefor, and lodge it with the auditor ; but if on a settlement with the auditor, it shall appear that the sum received from the treasury by such agent, was not sufficient to satisfy the expenses aforesaid, the auditor shall certify the same to the governor, and if the governor shall be of opinion that the account exhibited by such agent be just, he shall give notice thereof to the auditor,

who shall issue his warrant for payment of such deficiency accordingly. The agent appointed and performing the duties assigned him as aforesaid, shall receive for his services one dollar and fifty cents for every twenty-five miles he may necessarily travel in executing the same, which shall be ascertained by the oath of the said agent, made before some justice of the peace of this state, a certificate of which oath shall be filed in the auditor's office, as his voucher for issuing his warrant on the treasurer for payment of such allowance; and if any agent appointed under this act, shall neglect or refuse to make such settlement with the treasurer and auditor, within three months from the time of his receiving the warrant to apprehend such fugitive, he shall forfeit and pay the whole of what he has received a warrant for, and fifteen per cent. damages, to be recovered by the auditor of public accounts, in the same manner as against delinquent sheriffs; and it shall be the duty of the auditor to move against such agent accordingly.

1803.

His compensation.

Penalty for neglecting to settle his accounts.

How to be recovered.

Sec. 5. *And be it further enacted*, That the governor be, and he is hereby authorised to settle with the persons whom he employed as agents for this commonwealth to demand Robert Wiley, a fugitive from justice, of the governor of Tennessee, for their services in conducting, guarding and maintaining the said fugitive; and likewise to settle with those who, after his escape from Mason jail, apprehended and secured him, and by order of the governor, conveyed him to the jail in Frankfort; and the auditor of public accounts is hereby directed to issue a warrant to the persons before mentioned, on their producing a certificate from the governor, of his allowance made them for their services respectively.

Governor authorised to settle for the apprehension of Wiley.

This act shall be in force from the passage thereof.

#### CHAPTER XC.

*An ACT to amend an act entitled "an act concerning Mill-Dams, and other Obstructions of Water Courses."*

1803

Approved December 9, 1803.

Vide Vol. I, Chaps. 48 and 292.

WHEREAS it is represented to the present general assembly, that the law passed in the year 1797, concern-

1803. ing mill-dams and other obstructions of water courses, is oppressive to a number of our citizens :

*Be it therefore enacted by the general assembly, That so much of the above recited act as debars persons from letting their swine run at large, for want of a sufficient quantity of lands, shall be, and the same is hereby repealed: Provided, nevertheless, no owner of any mill which may be within the limits, or within one mile of any town in this commonwealth, shall be allowed to let his swine run at large at such mill.*

This act shall be in force from and after the passage thereof.

#### CHAPTER XCI.

*An ACT for adding a part of Adair County to Wayne.*

Approved December 9, 1803.

WHEREAS it is represented to the present general assembly, that a number of good citizens of the county of Adair, labor under great inconveniences in attending at their present seat of justice, owing to the distance and badness of the road which they have to travel, and that it is much nearer and better way to Wayne court-house: for remedy whereof,

Sec. 1. *Be it enacted by the general assembly, That from and after the first day of March next, all that part of Adair county aforesaid, comprised within the following bounds, shall be added to, and considered as a part of the said county of Wayne, to wit: beginning at the mouth of Wolf creek, up the same to the line of Pulaski county, with the said line to Cumberland river, and with the river to the beginning.*

Sec. 2. *And be it further enacted, That the sheriff of the said county of Adair, may lawfully, after the said first day of March, distrain or collect all public dues and officers' fees, from the inhabitants residing within the before mentioned boundary, which the said sheriff is now, or may be before the said first day of March bound by law to collect.*

This act shall be in force from and after the 20th day of February next.



## CHAPTER XCII.

1803.

*An ACT concerning the Town of George-Town.*

Approved December 12, 1803.

SECTION 1. *BE it enacted by the general assembly,* That it shall be lawful for all free white male inhabitants of George-Town, in the county of Scott, above the age of twenty-one years, to elect annually on the first Saturday in the month of February, seven trustees: the first election shall be conducted by two of the justices of Scott county, to be appointed by the county court of said county, for that purpose; and ten days previous notice thereof shall be given by the magistrates so appointed, in the most public places in the said town; and the return of persons so elected, shall be made to a clerk, to be also appointed by the said county court, *pro tempore*, and by him recorded in a journal to be provided for that purpose. In all future elections the election shall be conducted by one or more of the then acting trustees, to be appointed for that purpose, and ten days previous notice thereof shall be given by the chairman of said board, in the most public places in said town; and the return of persons so elected shall be made to the clerk of said board, and by him recorded in their journal. The said trustees, before they proceed to business, shall take an oath to discharge the duties of their office as trustees, without favor, affection or partiality; and the clerk of said board shall have power to administer oaths to any person or persons coming before the board under the directions of this act.

Trustees to be elected, when, and by whom.

To take oath.

Sec. 2. No person shall be elected as a trustee who is not a freeholder and an inhabitant of said town at the time of the election. All vacancies occasioned by the death, resignation, or otherwise, of any of the trustees aforesaid, shall be supplied by an election, to be holden as aforesaid, on some day to be named by the board.

Qualification of trustees.

Vacancies, how filled.

Sec. 3. The said board shall appoint a clerk, who shall hold his office until the next annual election of trustees, but for good cause may be removed; and the clerk so appointed, before he enters on the duties of his office, shall take an oath, to be administered by the chairman of said board, that he will to the best of his skill and ability make true entries of the proceedings of said board, and that he will safely keep the books and

Clerk to be appointed.

To take oath.

1803. papers given to him in charge, and shall moreover acknowledge himself responsible to said board for any neglect or malfeasance in office; and an entry thereof shall be made on the journal of said board.

Power of the trustees to levy a tax.

Sec. 4. The said trustees shall have power to levy and enforce the collection of a tax, not exceeding two dollars annually on each titheable, and on all property, both real and personal, not exceeding one per cent. within the limits of said town; and shall have a lien on such property until the tax thereon be paid; and shall apply the said tax to such purposes as they shall deem proper for the benefit of said town.

To appoint a commissioner.

Who shall take an oath.

His duty.

Sec. 5. And the said trustees shall, on or before the first day of April, annually, appoint a commissioner, for the purpose of procuring a list of each individual's property lying or being in the limits of said town; which said commissioner, before he begins to exercise the duties of his office, shall make oath before some justice of the peace for said county, that he will to the best of his skill and ability, without favor, affection or partiality, discharge the duties hereby enjoined on him, viz. he shall, on or before the first day of May, proceed, without delay, to call on each person resident within the said town or limits, or holding a lot or lots or other property therein, or his or her agent, (if any such there be) for a written list of his or her property, which being corrected (if necessary) and distinctly read over by the commissioner to the person delivering the same, he or she shall make oath or affirmation, to be administered by the said commissioner, to the truth of such list; and the said commissioner shall value the property so listed, and note the amount of such valuation on such list; and in case of neglect or refusal on the part of the person so called upon to give a list of his or her property as aforesaid, or in case of a person holding property in said town, but not residing within the limits thereof, and having no agent therein, it shall be lawful for the commissioner to make out a list thereof from the best information he can procure, and to fix the valuation thereof as afore mentioned; which list shall, on or before the fifteenth day of May, be returned by such commissioner to the board of trustees; who may proceed immediately to apportion the tax to be collected agreeably to the valuation aforesaid: *Provided, however,* that if any per-

Trustees to apportion the tax.

son shall conceive him or herself aggrieved by such valuation, he or she may appeal to the board of trustees at their next meeting, who shall, if they see cause, reduce the estimate of such valuation; and if any person, when called on by the commissioner, shall give or deliver a false or fraudulent list, he or she shall be liable to a fine of ten dollars, and to pay triple tax, to be sued for, recovered and applied as hereafter directed.

Sec. 6. The trustees shall have power to call out the male titheables of said town for the purpose of working on said streets and roads leading from main and cross streets in said town, and extending three quarters of a mile from the centre thereof, excepting the two roads, the one leading to Bourbon, and the other to the mouth of Licking, in both of said roads, to work only to the bridge on north Elkhorn creek, and for removing nuisances under the superintendence of a surveyor, or overseer, to be appointed by said board, whose duty it shall be, when directed by the board, to call upon the said titheables to meet on some day, and at a certain place, with proper tools for the purpose aforesaid; and every such person failing to attend so equipped, or shall refuse to labor under the direction of said surveyor, or overseer, or to find some person equally able to work in his room, (provided he hath three days notice of the time and place aforesaid) shall be liable to pay the sum of one dollar and twenty-five cents, to be sued for, recovered and applied as hereafter directed; and if the surveyor so appointed shall fail or refuse to comply with the duties hereby required of him, he shall be liable to be fined the sum of ten dollars, and to be displaced from his office; which fine shall be sued for, recovered and applied as hereafter directed; and the inhabitants of said town shall not be compelled to work on any road, except as herein directed.

Sec. 7. Any person who shall be guilty of running or racing horses in the streets, playing or throwing bullets, or shooting at marks within the in-lots of said town, such person shall, for every such offence, if a free person, forfeit and pay the sum of three dollars, to be sued for and recovered as heretofore directed: and if a slave or servant, shall be whipped at the discretion of a justice of the peace, not exceeding fifteen lashes, on his or her bare back.

1803.

Appeals to the trustees allowed in certain cases.

Penalty for a false list.

Titheables to work on streets and roads.

Surveyor to be appointed.

His duty.

Penalty for refusing to attend and labor.

Penalty on surveyor for failure in his duty.

Horse racing, &amp;c. prohibited.

Penalty.

1803.  
Collector to be  
appointed.  
His duty.

To give bond.

Proceedings  
thereon.

Power of the  
trustees to make  
by-laws, &c.

Penalty for a  
breach thereof.

Fines how reco-  
vered and ap-  
propriated.

To commence.

Sec. 8. And the said trustees when they have laid and apportioned the tax on the property assessed as aforesaid, shall appoint a collector; whose duty it shall be to collect and account for such tax within three months after a list of the same shall be put into his hands; and if any person shall refuse to pay the same, the said collector shall have power to make distress and sale of so much of his or her property as will be sufficient to make the tax by him or her due, and the collector shall deliver the money so collected to the trustees, or to the person who may be appointed by them to receive it, deducting therefrom such compensation for his services as the said board shall have agreed to pay him: *Provided, however,* that before the said collector shall proceed to business he shall give bond with sufficient security, payable to the trustees, in the penalty of double the sum to be collected, for the faithful discharge of the duties of his office; and should he fail to comply with the conditions of said bond, the county court of Scott county, which is hereby specially authorised and empowered, on application or motion of the chairman of said board, to give judgment and award execution against the said collector, for such sum or sums, with ten per cent. damages on the same.

Sec. 9. The trustees aforesaid shall have power to make any by-law or laws, rules and regulations for the government of the market, for the opening and clearing of any alley, and for the internal government of said town in general, as they may deem expedient, not inconsistent with the provisions contained in this act, or the constitution or laws of this state, or of the United States; and they are hereby empowered to lay such fine or fines, not exceeding fifteen dollars, for a breach or breaches of said by-law or laws, rules and regulations aforesaid, as they shall deem proper: and all fines by them imposed, together with such as are pointed out in the provisions of this act, shall be sued for in the name of the trustees for the town of George-Town, under their direction or the direction of some person appointed for that purpose, and the money recovered thereby shall be applied to such purposes for the benefit of said town as they shall deem proper.

This act shall commence and be in force from and after the first day of January, 1804.

## CHAPTER XCIII.

1803.

*An ACT for the division of Mason County.*

Approved December 12, 1803.

**SECTION 1.** *BE it enacted, by the general assembly,* That from and after the first day of February next, all that part of the county of Mason that is included in the following boundary, to wit: beginning on the Ohio, opposite to the mouth of big Scioto river, thence a course so as to include all the branches of Tygert's creek, until it intersects the Fleming line, thence with the line of Fleming county to the line of Floyd county, thence with the line of Floyd to big Sandy river, and down big Sandy to the Ohio, and thence with the Ohio to the beginning, shall be one distinct county, and called and known by the name of Greenup.

Boundary.

**Sec. 2.** After the said division shall take place, the courts for the said county of Greenup shall be held on the third Monday in every month, except the months in which the court of quarter sessions are held; and the quarter session court shall be held, annually, in the months of January, April and October, in such manner as is provided by law in respect to other counties in this state.

Time of holding courts.

**Sec. 3.** The justices named in the commission of the peace for the said county of Greenup, shall meet at the house of Andrew Hood, on the first court day after said division shall take place; and having taken the oaths prescribed by law, and the sheriff being duly qualified, the court shall proceed to appoint and qualify their clerk.

Where &amp; when the justices are to meet to appoint a clerk.

**Sec. 4.** *And be it further enacted,* That Duval Payne, Joseph Donophan, Philemon Thomas, Abraham Drake and Thomas Sloo, or any three of them, shall, and they are hereby appointed commissioners, to meet at the mouth of little Sandy, on the first Monday in March next, or as soon thereafter as may be, who, being first duly sworn by some justice of the peace for said county, shall proceed to view and fix upon the proper place for the permanent seat of justice in and for said county, as near central as the situation and the nature of the case will permit; and having fixed upon such place, the seat of justice shall there be established, and the court shall cause public buildings to be thereon erected: *Provided, however,* that when the commissioners shall have fixed

Commissioners appointed to fix the seat of justice.

Provido.

1803.

Their compen-  
sation,

upon a place in the said county, for the seat of justice thereof, they shall, under their hands and seals, forthwith certify the same, together with a plat of the ground, to the county court, who shall cause the same to be entered of record, and shall immediately proceed to contract for the said land; and the court for the said county shall levy in their next county levy, two dollars per day, each, for each day the said commissioners shall be travelling to, attending and returning from the business under this act to be done by each of them, to be accounted for in the same manner that other county levies are collected and accounted for.

Sheriff to col-  
lect taxes and  
fees due when  
the division  
takes place.

Sec. 5. It shall be lawful for the sheriff of Mason county to make distress for any public dues or officers' fees unpaid by the inhabitants within the bounds of the said county of Greenup at the time such division shall take place, and he shall be accountable in like manner as if this act had not been passed.

Mason courts to  
have jurisdic-  
tion in certain  
cases.

Sec. 6. The courts of Mason county shall have jurisdiction over all actions and suits at law or equity depending therein at the time of the said division, and shall try and determine the same, issue process, and award execution thereon.

This act shall commence and be in force from the first day of February next.

#### CHAPTER XCIV.

##### *An ACT concerning the General Court.*

Approved December 13, 1803.

*BE it enacted by the general assembly,* That it shall and may be lawful for three of the circuit court judges to be a quorum to do business during this present term of the general court, and no longer, any law to the contrary notwithstanding; and the term may continue until the twenty-fourth of this instant, inclusive, if necessary.

This act shall commence and be in force from its passage.

#### CHAPTER XCV.

##### *An ACT giving further time to the owners of Plats and Certificates to return the same into the Register's office.*

Approved December 17, 1803.

## XII. YEAR OF THE COMMONWEALTH.

119

*BE it enacted by the general assembly,* That the further time of twelve calendar months from and after the end of the present session of ~~the~~ general assembly, shall be allowed the owners of plats and certificates of survey made before the time for surveying entries expired, to return the same into the register's office ; in which time the register of the land-office shall receive all plats and certificates of survey, although not returned within the time limited by law ; and such lands shall not be considered forfeited or liable to forfeiture on that account, any law to the contrary notwithstanding : *Provided,* that nothing in this act contained shall extend to lands granted to settlers by this commonwealth. This act shall be published three months in the paper published by the public printer.

1803.

This act shall commence and be in force from and after the passage thereof.

### CHAPTER XCVI.

*An ACT allowing Clerks of the County Courts a compensation for their services on Criminal Prosecutions.*

Approved December 17, 1803.

See the preface to Chap. 75, of Vol. I.

WHEREAS by a law passed December 20th, 1802, the county courts were constituted courts for the examination of criminals, and certain duties imposed on the clerks of said courts, without giving them any compensation for the same : for remedy whereof,

*Be it enacted by the general assembly,* That the clerks of the county courts shall receive the same fees that the quarter session clerks formerly were entitled to for similar services on criminal prosecutions ; and the auditor of public accounts is hereby authorised and directed to issue his warrant on the treasury for all sums for services which may have been rendered since the passage of the above recited act, or which may hereafter be performed by the said clerks on criminal prosecutions, upon the clerk's producing a certificate from the county court of such services having been rendered ; any law to the contrary notwithstanding.

This act shall be in force from and after the passage thereof.

1803.

## CHAPTER XCVII.

*An ACT to amend several acts concerning Writs of Error.*

Approved December 17, 1803.

*Vide Chap. 45, of this Vol.*

*BE it enacted by the general assembly, That when any person or persons shall think himself or themselves aggrieved by any faulty replevin bond, or forthcoming bond, or any faulty or erroneous execution whatever; he shall, before he can obtain a writ of error, or writ of error coram vobis, give the opposite party, his, her or their agent or attorney, ten days notice in writing of the time and place that he shall apply for said writ; and shall state to the judge or judges to whom he, she or they may apply for such writ, the error or errors in the said bond, and produce at the time of applying for such writ, a copy of such faulty replevin or forthcoming bond, or any faulty or erroneous execution whatever, attested by the clerk of the court to which such bond has been returned; and the judge or judges, as the case may be, shall order so much thereof as they may find erroneous, to operate as a supersedeas, and no more; and the balance of such bond may be recovered in the same manner as if no such writ had issued; any law to the contrary notwithstanding.*

*This act shall be in force from the passage thereof.*

## CHAPTER XCVIII.

*An ACT allowing certain Water-Works to be erected on the Kentucky River, and for improving the Navigation thereof, near the Town of Frankfort.*

Approved December 17, 1803.

*WHEREAS it is represented to the present general assembly, by Martin Hawkins, that there is a small island in the Kentucky river, below the town of Frankfort, not heretofore appropriated, and known by the name of the Fish-Trap island, and that water-works may be advantageously erected on the east side of the river, opposite the said island, and that the navigation of the river may be much improved thereby:*

*Sec. 1. Be it enacted by the general assembly, That Martin Hawkins may, and he is hereby authorised, at*



his own expense, to clear out and improve the western channel of the river, at the said island, and to remove all stones and other obstructions out of the same; that the said channel shall be at least thirty feet in breadth, the whole length thereof; it shall then be the duty of the said Martin Hawkins to give notice thereof, when completed, to Christopher Greenup, John Hunter, William Trigg, Thomas Harte, jun. and John Instone, gentlemen, who are hereby appointed commissioners, and they or a majority of them shall proceed to view the same, and if they shall be of opinion that the channel is sufficiently opened, and that by turning the water of the river into the said western channel, the navigation of the river will be improved thereby, and made more safe for the passage of boats; then the said Martin Hawkins may proceed to make a dam across the eastern branch of the river, at the upper end of the island, to be of no greater height than will be sufficient in the opinion of the commissioners to turn a sufficient quantity of water in the western channel, to make the passage of boats down and up the same safe at all times, provided there shall be so much water in the river.

1803.

Sec. 2. *And be it further enacted*, That the said Martin Hawkins shall be at liberty, when the channel and dam shall be so completed, to erect and build any water-works, which will be of public utility, at the bank of the eastern side of the river, opposite the said island, and to hold and enjoy the same so long as he shall keep the western branch clear and in good order, and the navigation thereof shall be safe, and his dam kept in such order and repair, that the navigation will not be impeded or injured thereby, and no longer.

M. Hawkins  
may erect wa-  
ter-works un-  
der certain con-  
ditions.

Sec. 3. *And be it further enacted*, That the property of this commonwealth in and to the said Fish-Trap island, and eastern bank of the river opposite thereto, shall be and is hereby vested in the said Martin Hawkins on the conditions aforesaid.

To whom is  
ceded the Fish-  
Trap island.

Sec. 4. *And be it further enacted*, That it shall be lawful for the said Hawkins to sue out of the office of the county court of Franklin, a writ of *ad quod damnum*, in order to have one acre of land on the eastern bank of the river, opposite to the said island, condemned for the erection of his water-works on; and the same rules

May obtain a  
writ of *ad quod*  
*damnum*.

1803.

Certain powers  
of the commis-  
sioners.

Their compen-  
sation.

M. Hawkins to  
pilot boats for a  
certain time.

Penalty for de-  
taining them.

Further power  
of the commis-  
sioners.

M. Hawkins to  
give bond and  
security.

and proceedings shall be had thereon, as is now by law in like cases.

Sec. 5. *And be it further enacted*, That if it should appear to the commissioners aforesaid, that any part of the water-works or dam, when erected, will be injurious to the navigation, it shall be the duty of the said Hawkins either to remove or alter such dam or works, as to prevent any injury to the navigation, agreeable to the direction of said commissioners; and on failure thereof, shall be liable for damages to the party injured thereby. The said commissioners shall be paid by the said Hawkins one dollar per day, for every day they shall be employed in the business aforesaid; and in case of a majority neglecting or refusing to do the duties hereby required, all the power vested in them by this act, shall be and is hereby vested in the county court of Franklin county.

Sec. 6. *And be it further enacted*, That as soon as the said Hawkins shall begin to erect his dam, as aforesaid, he shall thereafter, and for one year after the same shall be completed, upon application or notice left at his house, which notice shall be given at least two hours before sunset, pilot every boat or other vessel, from Frankfort to Lee's creek, without any fee therefor—

and for every hour any boat shall be detained, after such notice given, he shall pay to the master or owner of such boat or vessel, four dollars, recoverable before any justice of the peace: *Provided, however*, the said commissioners or court (as the case may be) shall, from time to time, view the said works, and if it appear to such commissioners that the manner in which the said Hawkins is proceeding, in building his dam, will injure the navigation of said river, he shall cease from working until after the meeting of the next assembly; and the commissioners aforesaid, shall report to such assembly their opinion; and the legislature shall, at all times hereafter, have it in their power to pass laws to cause the said Hawkins to remove his dam, or other works, out of the said river, if in their opinion it shall be necessary for the benefit of the navigation thereof, or make such alteration therein as they may deem proper; and the said Martin Hawkins shall give bond with sufficient security, in the office of the general court of this state, to be adjudged of by the said court, in the penalty of one thou-

and dollars, payable to the governor for the time being and his successors, conditioned for the removal of the materials of the said dam, or other works, when directed by law so to do, or for making such alterations in said dam, or works, as may, from time to time, appear necessary to the legislature; which bond shall be lodged in the office of the said general court: and on failure of the said Hawkins to comply with any requisition of the legislature, as aforesaid, he shall, for every such failure, forfeit and pay one hundred dollars, to be recovered with costs, on motion of the attorney-general, before the general court of this state, in like manner, and to be collected as other public monies are, and to be paid into the treasury of this state, by the officer receiving the same, under the same rules and regulations as are by law directed for the payment of money by the several sheriffs; and the said bond shall not be void upon the first recovery; but may be put in suit, from time to time, until the whole penalty thereof shall be recovered.

1803.

Proceedings in  
case of failure.

This act shall be in force from the passage.

#### CHAPTER XCIX.

*An ACT to establish sundry Inspections of Flour, Hemp and Tobacco.*

Approved December 22, 1803.

*Vide Vol. I, Chap. 58, and the Notes.*

SECTION 1. *BE it enacted by the general assembly,* That inspections of flour, hemp and tobacco, shall be established at the following places, viz: In the county of Montgomery, on Licking river, near the mouth of Slate, on the lands of — Trumbo, to be called and known by the name of Trumbo's; in the county of Harrison, on the Licking river, near the mouth of Beaver creek, on the lands of Robert Clarke, to be called and known by the name of Clarke's inspection; in the county of Boone, on the Ohio, immediately below the mouth of Willoughby creek, on the lands of Joshua Whitlington, to be called and known by the name of Willoughby creek inspection; an inspection of flour, hemp and tobacco, to be called and known by the name of West-Point inspection, at the mouth of Salt river, on the public square of said town of West-Point, in the county of Hardin; an inspection of flour, hemp and tobacco, on the lands of

Inspections est-  
tablished.

At Trumbo's.

Clarke's

Willoughby  
creek.

West-Point.

Taylor's.

1803.

Maberry's.

Kirkpatrick's.

What a lawful  
ware-house.New ware-  
houses to be e-  
rected.Penalty for fail-  
ure.Regulations of  
the inspections  
hereafter to be  
established.Duty of justi-  
ces.

To commence.

Chapman Taylor, in Logan county, in the forks of Wolf lick and Muddy river, to be known by the name of Taylor's inspection; in the county of Christian, between Little river and Cumberland river, near their junction, on the land claimed by — Maberry, Esq. to be called and known by the name of Maberry's inspection; in the county of Cumberland, at the mouth of Masheck's creek, on the lands of Moses Kirkpatrick, and to be known by Kirkpatrick's inspection. And to declare what shall be a lawful ware-house.

Sec. 2. *Be it further enacted*, That no ware-house hereafter erected, shall be deemed lawful, unless the body shall be of brick, or stone, or scantling, enclosed with strong boards or planks, well nailed on, or logs so close as to keep safely, and prevent any injury by the weather, all produce that may be stored therein; to be floored with plank or timber, and a good roof, shingles or plank well nailed on. It shall be the duty of the proprietor or owner of every ware-house, or of the land on which any ware-house may be established by this act, his or her guardian, husband, attorney or agent (as the case may be) to build new houses agreeably to this act, within twelve months from the passage thereof; and on failure every such inspection shall be discontinued and deemed unlawful, until such buildings and repairs shall be made, which shall be viewed and reported to the county court, by some justice thereof, to be appointed for that purpose; which report, if approved of by the court, shall be entered of record. No inspection hereafter established, shall be carried into operation, until sufficient and lawful ware-houses shall be erected thereat, and a report approved and recorded as aforesaid; and it shall be the duty of the justice or justices of the peace, to be hereafter annually appointed, to view the scales and try the weights of any ware-house, agreeably to the inspection laws, to view and report the state of every such ware-house to the county court, who shall make such order therein as shall be agreeable to law, either to discontinue or commence any inspection.

This act shall commence and be in force from its passage.

## XII. YEAR OF THE COMMONWEALTH.

125

### CHAPTER C.

1803.

*An ACT concerning the Turnpike and Public Roads in this Commonwealth.*

Approved December 22, 1803.

SECTION 1. *BE it enacted by the general assembly,* That so much of the act, entitled "an act to reduce into one the several acts concerning the turnpike and wilderness road," as provides that no toll shall be collected from any persons who may be removing with their families to this commonwealth, or from any of such family or property, or from any person, or his or her property of any kind, who resides within ten miles of the turnpike, shall be, and the same is hereby repealed.

Part of former law repealed.

Sec. 2. *Be it further enacted,* That all persons residing within three miles of the roads from Lee's and the Grassy licks, to Cumberland gap, and who are subject to labor on public roads, by the laws of this commonwealth, shall labor four days in every year on said roads, under the direction of the commissioner thereof; and he shall procure a list of all such persons. The commissioner shall notify, or cause to be made known to all such persons, at what times and places they must attend and labor as aforesaid, having regard to the most convenient parts of the roads, for the respective hands to labor on.

Who to labor on the road.

Sec. 3. Every person who shall fail to attend and labor as aforesaid, and to bring proper tools for repairing the roads, or such as the commissioner shall require, and to labor as the commissioner directs on said roads, shall pay the sum of one dollar and twenty-five cents for each day's failure so to do, unless he has a lawful excuse for such failure, or furnishes a person equally able in his room; which money shall be paid by the person so failing to attend and labor, if a freeman; if an infant, then by his parent, guardian or master; or if a slave, then by his overseer, if under one, or otherwise by his master or mistress; to be recovered by the commissioner of the said roads, before any justice of the peace in the county in which such person shall be, to be applied to the repairing of the roads aforesaid: *Provided,* that every person who fails to attend and labor as aforesaid, on the said roads, and who has a lawful excuse therefor, shall be liable to work on the said roads as aforesaid, as ma-

Penalty for failure.

How to be recovered.

1803. ny days as he shall so lose, whenever required by the commissioner.

Sec. 4. Every person subject to labor on the roads aforesaid, or any of their family or property, shall pass the turnpike free.

The gate may be removed on certain conditions.

Sec. 5. The keeper of the turnpike shall be at liberty to remove the gate, not exceeding one mile from its present place; provided he prevents passengers from passing around it, and shall be responsible for any loss or injury, which may arise to the commonwealth, in consequence of such removal; and provided ~~that~~ he or his legal representatives shall re-fix the gate at its present place, immediately upon being succeeded to that appointment, unless otherwise directed by the succeeding keeper, who shall in that case be subject to the above conditions, as they relate to himself, and so shall the several successors to the said appointment.

Counties to be laid off into precincts.

Sec. 6. *And be it further enacted*, That the county courts in this commonwealth shall, if necessary, lay off their respective counties into precincts, as to them may seem proper, and appoint a surveyor in each precinct; whose duty it shall be to superintend the public road or roads in his precinct, and, with the persons in his said precinct, cause the same to be cleared and kept in good repair, and shall continue in appointment until another be appointed in his stead; and shall moreover be subject to the duties and penalties that surveyors of public roads are now by law subject to.

This act shall be in force from its passage.

## CHAPTER CI.

*An ACT to amend and reduce into one the several acts concerning Constables, and authorising Coroners to summon a Jury.*

Approved December 23, 1803.

*Vide Vol. I, Chap. 62, and the Notes.*

SECTION 1. *BE it enacted by the general assembly*, That the county courts of each county shall lay off their respective counties into districts, and shall appoint ~~constable~~ constables in each district, who shall execute the duties enjoined them by law; and provided, that if any constable who is now in office, shall not come forward on or before the third county court which shall be holden

County courts to lay off districts, and appoint constables.

Those in office to give security

within each county in this commonwealth, after the passage of this act, and give security according to its provisions, if the court should deem it proper to appoint them, the office of such constable or constables are hereby declared to be vacated.

1803.

Sec. 2. Every person being appointed a constable, and accepting the appointment, shall, in his county court, enter into bond with one or more good and sufficient securities, to be approved of by the court, in the penalty of five hundred dollars, with the following condition, to wit: "The condition of the above obligation is such, that if the above named A. B. as constable of the county of C. shall by himself, well and truly collect all officers' fees and dues put into his hands to collect, and account for and pay the same, at such time and in such manner as is directed by law, and shall well and truly execute, and due return make of all process and precepts to him directed and to him delivered, and pay and satisfy all sums of money and tobacco by him received upon any such process or precepts, to the person or persons entitled thereto, or to their order; and in all other things shall faithfully and truly execute and perform the said office of a constable, according to law, during the time of his continuance therein; then the above obligation to be void, otherwise to remain in full force," &c. Which bond shall be payable to the governor for the time being, and his successors, and in his name, or that of his successors. Any person or persons injured by a breach of the condition, may, at his costs, prosecute a suit thereon, and recover damages; but such person shall be liable to pay costs to the defendant, if a verdict and judgment pass in his favor, or the suit be discontinued; and such bond shall not become void upon the first recovery or dismissal upon a first or other suit, but may be put in suit from time to time, by and at the cost of any other person injured, until the whole penalty be recovered in such damages.

Condition of  
the bond;

Sec. 3. *And be it further enacted,* That any officer or creditor upon such bond, may, by application to a magistrate, who is hereby authorised to give judgment thereon, recover the amount of any fees put into the said constable's hands, or the amount of any money put into the hands of such constable to collect, on executions or fines, either for the commonwealth or for any indi-

Constables fail-  
ing to account,  
how to be pro-  
ceeded against.

1803.

{

vidual ; and the said magistrate shall, on sufficient proof made to him that such constable has neglected to account to such officer, commonwealth or individual, for such money or fines agreeably to law, enter up judgment for the amount thereof, together with ten per cent. damages and costs, and issue execution therefor ; which execution shall be acted on by some other constable of the county, and on such execution the magistrate shall endorse "No security of any kind to be taken." And the constable to whom such execution shall be given, shall proceed to collect the same from the former constable and his security or securities, as executions on replevin bonds are collected, ten days previous notice in writing being given to such constable by the party, of the time and place that such application to a magistrate will be made.

To take oath,  
&c. in open  
court.

How governed  
in making re-  
turns in certain  
cases.

Sec. 4. *And be it further enacted,* That any person before he enters upon the office of a constable, shall, in open court, give assurance of fidelity to the commonwealth and take the oath of office in the form prescribed by the constitution and law. No constable shall return upon any precept to him directed, that the defendant is not found within his bailiwick, unless such constable shall have been actually at the place of residence of such defendant, and not finding him, shall have left a true copy of the precept, or unless such defendant's place of residence is unknown to such constable ; and no constable shall be compelled to receive a precept or fees of any kind against any defendant who is known to be out of his bailiwick (except it be for the commonwealth), but if any constable shall voluntarily receive such precept or fees, he shall be accountable for the same in the same manner as if within his bailiwick.

Penalty for  
failing to make  
returns in 30  
days.

Sec. 5. *And be it further enacted,* That when any warrant, attachment or subpoena, shall be put into the hands of any constable, and such constable shall not return it to the magistrate who issued the same, or to some other magistrate of his county (as the case may require) within thirty days from the day of issuing the same, such constable shall forfeit and pay to the party injured thereby, the sum of five dollars, recoverable by motion before a magistrate, in the same manner that money may be recovered under this act from a constable, for failing to pay money made on executions. When any magis-



trate shall vacate his office by death, or otherwise, it shall be the duty of the constable in whose hands any process of any nature whatever, issued by such magistrate, may be, to return the same to any other justice of the peace for his county within the time prescribed by law; under the same penalties as for failing to return as if no such vacation had taken place.

1803.

How to proceed where the magistrate who issued the process resigns, &c.

Sec. 6. The county court, a majority of all the members thereof being present, shall have power, on complaint being made, to dismiss any constable from office, for failing to do his duty, or for malfeasance in office, having by their clerk (on application of any person who may think himself injured) given ten days notice to such constable, to appear and make his defence. It, nevertheless, shall be the duty of such constable to return and account for all papers of every kind that he may have officially in his hands at the time of his dismissal, in the same manner as if he were in office; and the person who may apply to the court for the dismissal of any constable, shall pay all legal costs in case he shall fail in his prosecution, either by discontinuance or judgment in favor of the constable; and if the constable shall be cast, he shall pay the costs.

County courts may dismiss constables from office.

Sec. 7. In all cases where the party arrested or apprehended by a constable for riot or breach of the peace, and on trial shall be found guilty, the justice or justices before whom such offenders shall be tried, shall enter up judgment for the costs agreeably to the fees herein after allowed, and issue execution for the same, immediately, and deliver it to the constable, on which there shall be no replevin.

Persons convicted of a riot, &c. shall pay costs.

Sec. 8. When any property shall be taken by the constable by virtue of his office, he shall (on the person or persons from whom such property may be taken giving bond with sufficient security for the forthcoming of such property at the day of sale) suffer the property to remain in the hands of the debtor; but when such person or persons shall not be able or shall refuse to give such security, in either case, and the property shall consist of live stock, the constable shall take care of the same; and allowance shall be made him out of the money arising from the sale of such property, to be judged of by the justice to whom the execution is returned. There shall not be more than fifteen days between the

Constables may take bonds for the forthcoming of property at the day of sale under certain restrictions.

*C. Mac*

1803.  
What time be-  
tween execu-  
tion and sale.  
Sale to be ad-  
vertised & how.

time of executing and selling any property taken by virtue of an execution by a constable; ten days previous notice shall be given of the time and place of sale, by advertising the property (specifying each article) at the most public place or places in the neighborhood where the person from whom such property was taken resides.

Proceeding  
where property  
is not returned  
agreeable to the  
bond.

Sec. 9. Where a bond shall be given for the delivery of property, and shall not be complied with, at the day of sale, the constable shall return the bond to the justice who issued the execution, if such justice be still in office, if not, to the most convenient justice; and it shall be the duty of such justice to whom it is returned, on application of the plaintiff or his or her agent, to issue a new execution, including all costs, on which no security shall be taken.

Debtors may  
replevy.

Sec. 10. Constables shall at or before the day of sale, suffer a debtor to replevin the debt and costs for three months, by his giving bond and sufficient security, payable to the party at whose suit the execution issued. The condition of a replevin or forthcoming bond, shall specify separately the debt, interest and costs, and constable's fees; and when execution shall issue thereon, the justice of the peace shall endorse "No security of any kind to be taken." And no execution put into the hands of a constable shall be made returnable in more than ninety nor less than thirty days.

In what time  
executions shall  
be made re-  
turnable.

Constables' fees

Sec. 11. The constables in this commonwealth, shall receive for their services the several fees annexed to their several services herein after mentioned, to wit: For taking a replevin or forthcoming bond, twenty-five cents; for levying an execution, twenty-five cents, and a commission of six per cent. on all sums above three dollars, which may be contained in the said execution; for serving a warrant for debt, twenty-five cents; summoning witnesses in any case, each, twelve and a half cents; serving a peace or search warrant, one hundred cents; levying an attachment, thirty-seven and a half cents; summoning a garnishee, twenty-five cents; carrying a criminal to jail, each mile in going and returning, four cents; taking up a vagrant, fifty cents; for apprehending a person on a charge of felony, two dollars.

Penalty for  
charging more  
than the law  
allows.

Sec. 12. Any constable who shall receive or charge any more or greater fees, than is herein expressed, shall forfeit and pay to the party so charged, the sum of two

dollars for every false charge, to be recovered by a motion, before a justice of the peace, in the same manner that money collected on executions under this act is to be recovered. 1803.

Sec. 13. *And be it further enacted*, That it shall be lawful for any constable to levy an attachment on the personal property of any person who is about to absent or conceal himself so that the ordinary process of law cannot be executed on such person; and the property so attached shall be delivered by the constable, as soon as may be, with his return upon the attachment, to the sheriff of his county, whose duty it shall be to act with the same in every respect as if it had been attached by himself; and the constable shall be entitled to the fee for levying the attachment; and where attachments are levied by any constable, the justice before whom such attachment shall be tried, shall give judgment and award execution, on sufficient proof of the truth of the claim, or for any part thereof, subject to appeals as other cases tried on a warrant.

Sec. 14. It shall and may be lawful for the respective officers of this commonwealth to put their fees into the hands of any constable for collection, and for each constable to collect the same; and it shall be the duty of the constable to use due diligence in collecting, and shall have the same power to enforce payment as is now given to sheriffs by law, in similar cases. Such constable shall account for and pay to the persons entitled to receive the same, the money by them collected, within six months after such fees are put into their hands for collection, and shall be entitled to receive six per cent. on the money by them collected: *Provided*, that nothing herein contained shall prevent sheriffs from being compelled to receive and account for fees as heretofore prescribed by law.

Sec. 15. All constables in this commonwealth shall hereafter give bond and sufficient security once in every two years, or forfeit their office.

Sec. 16. *Be it further enacted*, That in any case in which an inquisition is required by law to be held by a coroner, it shall be lawful for the coroner to summon the jury for that purpose.

All acts or parts of acts coming within the purview of this act, shall be, and the same are hereby repealed.

1803.

## CHAPTER CII.

*An ACT authorising the Surveyors to enter and survey on the County Court Certificates, and for other purposes.*

Approved December 23, 1803.

Certain certificates to be entered & surveyed, &c.

*I have*

SECTION 1. *BE it enacted by the general assembly,* That any person who has heretofore obtained, or shall hereafter receive a certificate for land, by virtue of an act entitled "an act for settling and improving the vacant lands of this commonwealth," it shall and may be lawful for any such person to enter and survey the whole or any part of the land called for in his or her certificate, and such survey shall be recorded in the surveyor's office; and on a plat and certificate of such survey being returned to the register's office, and the money with the interest due thereon to the state being paid, a patent shall issue as in other cases.

Regulations as to land warrants.

Sec. 2. *And be it further enacted,* That where any warrant of survey has been obtained under the before recited act, directed to any surveyor of a county different from that in which the land lies, it shall be the duty of the surveyor of the county in which the land is situated, to survey the same, any law to the contrary notwithstanding, in like manner as if the warrant had been directed to such surveyor, and the register shall receive a plat and certificate thereof, and issue a patent as in other cases; and such surveyor shall record the said warrant in his office, and transmit the original with the plats and certificates of survey to the register's office.

And whereas surveys have been made on certificates granted by the commissioners, or the county courts, under the several laws of this state for disposing of the vacant lands, by the surveyor of one county, where the land lay in another county, by mistake, in consequence of the boundary lines between said counties not being then ascertained:

Certain surveys valid.

Sec. 3. *Be it therefore enacted,* That such surveys shall be as valid, to all intents and purposes, as if they had been made by the surveyor of the county in which the land is situated.

Repealing clause.

Any act or part of acts coming within the purview of this act, shall be, and the same are hereby repealed.

This act shall be in force from the passage thereof.

## XII. YEAR OF THE COMMONWEALTH.

132

### CHAPTER CII.

1803.

*An ACT concerning the assignment and relinquishment of Dower.*

Approved December 23, 1803.

*Vide Vol. I, Chap. 68.*

WHEREAS doubts have arisen whether the county courts of this commonwealth are authorised by law to appoint commissioners for the purpose of assigning the right of dower, when applied to for that purpose: wherefore,

Sec. 1. *Be it enacted by the general assembly,* That on the application of any widow, or other person whose duty it shall be to apply for the appointment of commissioners to assign the right of dower, the county court is hereby authorised and directed to appoint four fit persons in the county for the purpose aforesaid; and they (or any three of them, being first sworn faithfully to execute the charge entrusted to them) shall proceed to assign the right of dower, and make a report thereof; which shall be recorded in court.

Sec. 2. *And be it further enacted,* That it shall and may be lawful for any relinquishment of dower to be acknowledged before the county court clerk, who shall record a certificate thereof.

This act shall commence and be in force from its passage.

### CHAPTER CIV.

*An ACT concerning the Poor.*

Approved December 23, 1803.

*Vide Vol. I, Chap. 118, and Vol. II, Chap. 51.*

WHEREAS it is represented to the present general assembly, that some of the county courts in this commonwealth have doubted whether they are authorised to grant medical assistance to the poor; to remedy such doubts,

*BE it enacted by the general assembly,* That the county courts shall have full power, and are hereby authorised to give such assistance, in all and every case whatever, to the poor in their respective counties, as in their opinion they stand in need of; and where any physician has heretofore, under the direction of the county court, or any justice thereof, rendered any medical assistance

1803.

to any poor person or persons, it shall be in the power of such court to make a reasonable compensation to such physician or physicians, out of the county levy of such county, any law to the contrary notwithstanding.

This act shall be in force from the passage thereof.

## CHAPTER CV.

*An ACT giving further indulgence to the Settlers on Vacant Lands in this Commonwealth, to discharge the Debt due the State, on their late Head-Rights, and for other purposes.*

Approved December 23, 1803.

See the preface to Chap. 220, of Vol. I.

Preamble.

WHEREAS it is represented to the ~~general~~ general assembly, by the memorials of sundry citizens of this state, as well as other authentic information, that there are many citizens who have obtained lands by virtue of an act entitled "an act for settling and improving the vacant lands of this commonwealth," who are at present unable, on account of their late emigration and the scarcity of money, to discharge the state price now due, or which may soon become due thereon, by the above recited act:

Debt due to be paid by equal instalments.

When payable

Rate of interest.

Proviso as to persons who may hereafter settle on lands.

Sec. 1. *Be it therefore enacted by the general assembly,* That all monies now due, or which may become due, under the act before recited, or any act amendatory thereto, shall be paid by equal annual instalments, on or before the first day of November, in the year 1810; the first whereof, for money now due, shall commence on the first day of November, in the year 1804; and the remainder thereof, equally apportioned, on the first day of November, in every ensuing year, until the first day of November, 1810, as aforesaid, at which period the whole debt, then due, is to be discharged, together with six per centum per annum, simple interest, to be charged upon each instalment, from the time such debt may become due under the before recited act; and at the stated periods when the instalments aforesaid are directed to be paid into the treasury, the whole of the interest then due, on each instalment, shall be paid: *Provided, also,* that any person settling lands and obtaining certificates, under the before recited acts, after the passage of this act, shall be understood to be compre-

hended within the meaning and purview of this act, and shall settle for and pay the state price for any lands so taken according to the manner herein prescribed; and that nothing herein contained shall, in any wise, affect the perpetual lien this state may have upon the lands aforesaid, until the whole amount due therefor shall be paid: *Provided, nevertheless*, and it is clearly understood, that the power is reserved to the legislature, at any time before the expiration of the indulgence herein given, upon the failure of the settlers aforesaid, or any of them, to pay the instalments, or either of them, aforesaid, to pass such laws as may be thought proper to coerce the payment of the said instalments and interests. And all lands for which a certificate has been, or may be granted, by virtue of any of the before recited acts, shall remain subject to the demand of the state for the money due therefor, as head-right land, notwithstanding any neglect or omission to carry the same into grant, and a subsequent appropriation thereof by a military warrant, or otherwise: *Provided, nevertheless*, that if two or more head-right claims should interfere with each other, that the non-payment of the state price by any of the claimants to the said interference shall be no bar to any other of the claimants, his heirs or legal representatives, to any of the land so interfered with, to obtain a patent for the same, upon paying the state price due therefor.

Sec. 2. *Be it further enacted*, That if any person shall lay a military warrant upon any land granted by virtue of any of the said recited acts, knowing the same to be so granted, every military claim thus laid shall be absolutely null and void, and no such warrant, as aforesaid, laid, shall be surveyed or used afterwards in appropriating any land whatever, but shall be rendered invalid and of no effect, by the act of laying it knowingly upon any land granted to a settler. And no patent shall issue until the expiration of nine months from and after the surveying the claim for any military services.

Sec. 3. *And be it further enacted*, That in all cases surveys shall be made and plats and certificates returned and registered, as heretofore, until the time shall expire for the payment of the last instalment.

So much of any act or acts as expresses or implies a forfeiture for the non-payment of the state price on any

1803.

Lien of the state not to be affected.

Power reserved to the legislature, to coerce payment.

Lands subject for state price.

Proviso as to interfering claims.

Military warrants prohibited from being located on the lands of settlers.

Patent for military claims not to issue for nine months.

Surveys, when to be made and registered.

Forfeiture abolished.

1803. lands granted or taken by virtue of any act or acts heretofore made or provided for granting the vacant lands in this commonwealth, shall be and the same is hereby repealed.

This act shall commence and be in force from and  
To commence. after the passage thereof.

### CHAPTER CVI.

*An ACT to provide for the Election of Trustees in the Town of Danville, and for other purposes.*

Approved December 24, 1803.

Preamble.

WHEREAS it is represented to the present general assembly, that the several laws heretofore passed, concerning the trustees of the town of Danville, have proved ineffectual, and it is necessary that there should be some certain regulation of the said town: therefore,

Trustees to be  
elected, when,  
and by whom.

Sec. 1. *Be it enacted by the general assembly,* That the free male inhabitants of said town, and who shall possess the qualifications hereafter mentioned, are hereby authorised and required to meet at the court-house, in the town of Danville, on the first Saturday in February next, and on the same day in every two years thereafter, and shall elect nine trustees for said town, who shall reside within the limits of said town; which trustees so elected, a majority of whom shall be sufficient to form a board, shall be authorised to make any by-laws for the government and regulation of said town, as to them shall seem right, not inconsistent with the constitution and laws of this commonwealth. The said trustees, or a majority of them, shall have full power and authority to impose a tax, annually, on the real property and slaves within the limits of said town, not exceeding one hundred and fifty dollars, as to them shall seem right, for the purpose of improving and clearing the streets of said town, and for clearing and keeping in good repair the public springs, wells and market-house of said town, and for such other purposes as they may deem right.

Power to make  
by-laws.

To levy a tax.

To regulate the  
market, appoint  
a clerk, and im-  
pose fines for a  
breach of the  
by-laws.

Sec. 2. The said trustees shall regulate the market of said town, and appoint a clerk thereto. The said trustees shall have full power to inflict a fine not exceeding ten dollars, for every breach of their by-laws, to be



sued for and recovered before a justice of the peace, to be applied to the use of said town. They shall have power to appoint their clerk. 1803.

Sec. 3. *And be it further enacted*, That no person shall be elected a trustee of said town, or qualified to act as such, unless he resides within the limits of said town, and be the owner or possessor of real property therein; and be above the age of twenty-four years. Qualifications of the trustees.

Sec. 4. *And be it further enacted*, That no person shall be qualified to vote at the general election for trustees of said town, unless he shall have attained the age of eighteen years, and resided within the bounds of said town at least three months previous to the election, and possess property therein, either real or personal, to the amount of ten pounds: *Provided, however*, That if any person who shall have attained the age of eighteen years, who resides out of the bounds of said town, shall own real property within the limits of said town, such person or persons shall be entitled to a vote for trustees at the general election for trustees for said town. Of voters for trustees. & *Plat*

Sec. 5. *And be it further enacted*, That the board of trustees for said town, may at any time they may deem it necessary, appoint some fit person, who shall reside in said town, as a commissioner, for the purpose of obtaining, in such manner as they may direct, a list of all such property as may be subject to taxation by this act; whose duty it shall be, immediately, to proceed to obtain such list, and shall return the same to the board of trustees in such time and manner as they may direct, for the purpose of enabling said trustees to apportion the tax on said town. The said commissioner shall be allowed two dollars per day whilst he may be employed under this act, to be paid by the trustees out of the money collected as tax. Commissioner to be appointed. His duty.

Sec. 6. *And be it further enacted*, That when the trustees have laid and apportioned the taxes on the citizens of said town, under this act, they shall appoint a collector thereof, whose duty it shall be to collect and account for the same, within three months after the time a list thereof shall have been put into his hands by the trustees; and if any person shall refuse to pay the same, the said collector shall make distress and sale of property in the same manner as the collector of the revenue is directed by law to do; and the said collector A collector to be appointed. His duty.

1803.

His allowance.

How he may  
be proceeded a-  
gainst.Trustees to set-  
tle with the late  
collector.Proceedings a-  
gainst him.

shall pay the money so collected to the trustees of said town, or to such other person as they may direct, deducting thereout six per cent. for his services for collecting said tax; and on failure thereof, the said trustees, upon giving said collector ten days previous notice in writing, may recover the same by motion in the county court of Mercer; whose duty it shall be to render judgment therefor and award execution. The said trustees shall have power to call on the collector of the late board of trustees for said town, and compel him to account for and pay into their hands all sums of money which he may have collected under the authority of the late board of trustees for said town, and which he has failed to account for; and if the said collector shall fail to account for and pay to the trustees of said town, the money so by him collected, upon their application, or to such person as they may appoint to receive the same, it shall and may be lawful for the trustees of said town, upon giving such collector ten days previous notice in writing, to obtain a judgment against said collector for all sums of money which he may have collected and unaccounted for, in the county court of Mercer; whose duty it shall be to render judgment on motion for all sums collected by such collector, and unaccounted for, and award execution therefor.

Vacancies, how  
filled.

Sec. 7. *And be it further enacted*, That if any vacancy shall happen by death, resignation or removal in the board of trustees for said town, between the general election for trustees for said town directed to be held by this act, the remaining trustees of said town, or a majority of them, shall meet as soon as convenience will admit, and appoint some fit person to fill such vacancy, who shall continue in office till the next general election for trustees takes place.

Meetings of the  
trustees.

Sec. 8. *And be it further enacted*, That the board of trustees for said town shall meet every year in the courthouse in Danville, on the third Saturday in the months of February, May and September, and as much oftener as they may deem proper, for the internal policy of said town; and the trustees elected in pursuance of this act, shall continue in office for the term of two years after their election.

Continuance in  
office.Duty of the  
clerk as to e-  
lections.

Sec. 9. *And be it further enacted*, That it shall be the duty of the clerk of the board of said trustees, to give at

## XII. YEAR OF THE COMMONWEALTH.

189

least ten days previous notice, at least at two public places in said town, of the time and place at which an election shall be holden under this act for trustees ; and if said clerk shall fail to give such notice, he shall be liable to be fined at the discretion of said trustees, in any sum not exceeding five dollars, to be recovered by a warrant before a justice of the peace, and applied to the use of said town.

1803.

Penalty for failure.

How to be recovered.

Sec. 10. *And be it further enacted*, That the trustees of said town shall make such allowance to their clerk, and to the clerk of the market, for their services under this act, as they may deem proper, to be paid out of the monies arising from the tax imposed on said town by this act.

Allowance to the clerk of the market.

*Emery*

This act shall commence and be in force from and after the passage thereof.

To commence.

### CHAPTER CVII.

*An ACT to incorporate the Vineyard Society of Logan County.*

Approved December 24, 1803.

SECTION 1. *BE it enacted by the general assembly, and it is hereby enacted*, That William S. Dallum, William W. Whitaker, James Wilson, Amos Edwards, and Samuel Caldwell, and the rest of the subscribers who now have or may hereafter subscribe to the said vineyard association, shall be a body politic and corporate, by the name of the Logan Vineyard Society, and shall have power to sue and be sued, implead and be impleaded, by said name ; and to have and make use of a common seal, and the same at pleasure of the said directors at any time to destroy and another to make, as they may deem proper.

Company incorporated.

*E. H.*

Sec. 2. *And be it further enacted*, That it shall and may be lawful for the shareholders to meet on the first day of January in the year of our lord one thousand eight hundred and four, at the clerk's office in the town of Russellville, and then and there elect and choose five persons, being members of said society, who shall continue in office for one year from the date : a like election, for the same purpose, shall take place, and that annually thereafter forever : and that the directors so elected and

Annual meeting.

1803.

chosen shall at all times have, hold, possess and exercise all the authority invested in them by this act, and the power vested by the articles of association of the subscribers in the committee of directors.

Power of the  
directors.

Sec. 3. *And be it further enacted*, That the directors so appointed by or elected under this act may make by-laws for the government of the said corporation, the same not being inconsistent with this act, or the laws of the commonwealth, or the articles of association as subscribed by the members of the association.

Sec. 4. *And be it further enacted*, That the directors shall also have power to make any contract which they may deem proper; and that the said directors shall be authorised to recover any sum or sums of money now due by any person or persons to the vineyard association agreeable to terms of subscription or otherwise for the establishment of said Logan vineyard society, or which may become due to the said corporation, in the same manner and by the same mode of process as debts of the like kind are now recoverable by law.

Sec. 5. *And be it further enacted*, That three of the said directors shall form a quorum to proceed to business, a majority of whom shall determine on any question.

Sec. 6. *And be it further enacted*, That the said directors shall also have power to declare at what time and in what proportions of the several shares the subscriptions shall be payable, and to receive further subscriptions and payment of shares, not exceeding in the whole, with what is now subscribed, two hundred shares; they shall also appoint, at their first meeting after their election, and annually thereafter, a president among their own body, a treasurer and clerk.

Sec. 7. *And be it further enacted*, That all the estates, rights, properties, privileges, debts, and funds of every kind, of, or belonging to said vineyard association, shall be, and the same are hereby vested in the aforesaid corporation.

Shares, how  
transferable.

Sec. 8. *And be it further enacted*, That all the shares of the subscribers shall be transferable by deed, will, or assignment, to be duly recorded in books to be kept by the clerk of the directors for that purpose.

Contracts de-  
clared valid.

Sec. 9. *And be it further enacted*, That all contracts heretofore made by the said association, in the commit-

## XII. YEAR OF THE COMMONWEALTH.

141

tee of directors, with any person or persons whatsoever, are hereby declared valid and binding, as if made between the said corporation and the said person or persons, both on the said corporation and the said person or persons. And in order that the articles of association and the said contracts may at all times be capable of proof, *it is hereby further enacted*, that they shall all be recorded in the office of the clerk of Logan circuit court.

1803.

This act shall commence and be in force from and after the passage thereof.

### CHAPTER CVIII.

*An ACT directing the mode of choosing Electors to vote for a President and Vice-President of the United States.*

Approved December 24, 1803.

See the observations on Chap. 14, of Vol. I.

### CHAPTER CIX.

*An ACT concerning the Register's Office.*

Approved December 26, 1803.

WHEREAS it is represented to the general assembly, that there is a number of grants in the land-office which have been signed by the governor, and recorded in the books, but have not been completed as the law directs: therefore,

Sec. 1. *Be it enacted by the general assembly*, That whenever any incomplete or defective grant of grants, or any thing relative thereto, or any other paper or papers that required the late register to carry the same into effect, shall appear, it shall be the duty of the present register of the land-office to perfect the same, and when done by him shall be as valid in law as if they had been done by the late register, any law to the contrary notwithstanding.

Sec. 2. *And be it further enacted*, That the register of the land-office shall have a counter erected, and shall keep his books and papers behind the same, and procure such press or presses as he shall stand in need of for said office.

This act shall be in force from the passage thereof.

1803.

## CHAPTER CX.

*An ACT authorising the Register to receive Plats and Certificates of Surveys in certain cases.*

Approved December 26, 1803.

WHEREAS it appears to the general assembly, that the register of the land-office has refused to receive plats and certificates of surveys made on late head-rights, although the auditor's *quietus* for the payment of the state price do accompany the same : therefore,

*Be it enacted by the general assembly,* That where any person shall produce to the register the auditor's *quietus* for the whole amount paid on any such head-right as aforesaid, that the register is authorised and directed to receive into his office the plat and certificate of survey of such head-right so paid for, and to issue a grant therefor, as in other cases.

So much of every act or parts of acts as comes within the purview of this act, is hereby repealed.

This act shall commence and be in force from its passage.

## CHAPTER CXI.

*An ACT giving exclusive jurisdiction to the United States, of a tract of Land in Campbell County.*

Approved December 26, 1803.

*BE it enacted by the general assembly,* That the purchase made by the United States of five acres and six square poles, in the town of Newport, and county of Campbell, for the purpose of erecting an arsenal and other public buildings thereon, shall, and the same is hereby ratified and confirmed, vesting in the United States, the power to exercise the exclusive jurisdiction therein ; saving to this commonwealth the right to demand and receive from the officer or other person who may have the command or direction thereof, any person charged with crimes committed in any other part of this state, or such other person or persons as shall move there, to evade the execution of the laws of this state.

This act shall commence and be in force from the passage thereof.

XII. YEAR OF THE COMMONWEALTH.

143

CHAPTER CXII.

1803.

*An ACT authorising the appointment of an additional number of Justices of the Peace in certain Counties.*

Approved December 26, 1803.

WHEREAS it is represented to the present general assembly, that there is not a competent number of justices of the peace in several counties of this commonwealth: therefore,

*Be it enacted by the general assembly,* That the governor be and he is hereby authorised and required to appoint an additional number of justices of the peace in the following counties, viz: in the county of Warren four, in the county of Green two, in the county of Franklin one, the county of Henderson two, the county of Pendleton two, the county of Christian three, the county of Cumberland two, the county of Montgomery one, the county of Nicholas two, the county of Hardin three, the county of Henry two, the county of Muhlenberg two, in the county of Livingston two, in the county of Wayne two, in the county of Nelson two, in the county of Ohio two, in the county of Fleming one, and in the county of Madison one.

This act shall commence and be in force from and after the passage thereof.

CHAPTER CXIII.

*An ACT to amend the several acts respecting the towns of Louisville, Shelbyville, and Winchester.*

Approved December 26, 1803.

SECTION 1. *BE it enacted by the general assembly,* That it shall be lawful for the trustees of the town of Shelbyville, or a majority of them, to tax the inhabitants and freeholders of the said town, for the benefit thereof, in proportion to the real and personal property they may each of them respectively possess: *Provided,* the taxes laid on the inhabitants of said town, shall not exceed two hundred and fifty dollars annually, and they shall, in the collection of the same, and in every other respect be governed as they are now directed by law.

Sec. 2. *And be it further enacted,* That it shall and may be lawful for the trustees of the town of Winchester, to levy on the inhabitants of said town, in propor-

1803.

tion to their taxable property, a sum of money not exceeding five pounds ten shillings, as a compensation to Thomas Scott, for his services in surveying the lots of said town, in April, one thousand eight hundred and one, under the direction of the trustees of said town, and for making out a plat of the same.

Sec. 3. *And be it further enacted*, That it shall be lawful for the trustees of the town of Louisville, or a majority of them, to levy a tax not exceeding the sum of two hundred dollars annually, on the inhabitants and freeholders of the said town, in proportion to their real and personal property; and they shall in the collection thereof, and in every other respect, be governed as they are now directed by law. So much of the above recited acts as comes within the purview of this act, shall be and the same is hereby repealed.

This act shall commence and be in force from and after the passage thereof.

#### CHAPTER CXIV.

##### *An ACT concerning Sheriffs.*

Approved December 27, 1803.

*Vide* Vol. I, Chap. 16,

WHEREAS it is represented to the general assembly, that the sheriffs in this commonwealth are not uniform in charging their fees, by some ambiguity in the act entitled "an act to amend and reduce into one the several acts for the better regulating and collecting certain officers' fees:"

Commission on executions, Sec. 1. *Be it enacted by the general assembly*, That for serving an execution, if the property be actually sold or the debt paid, or where the sheriff shall have taken bond for the delivery of property, which is not complied with at the day of sale, the sheriff shall be entitled to five per cent. on the first hundred pounds, and two per cent. on all sums above that; and where he shall have levied an execution and the defendant shall replevy, the one half of the above commission, to be charged to the plaintiff and put into the replevin bond against the defendant; and for taking a replevin or forthcoming bond, fifty cents; for summoning and attending a jury to try the right of property, one dollar and fifty cents,

Certain fees allowed.



and no more, to be paid by the party cast by the inquest of the jury; and where a sheriff or other officer shall summon a jury to try the right of property, he shall give ten days previous notice, of the day of sale, to the party claiming the property, if in the county, if not, then to his agent or attorney, if any such there be; and should the claimant not succeed in establishing the property to be his, the sheriff or other officer, as the case may be, shall sell the property, and not be liable to any suit upon account of such sale; but if the party for whom the property shall be so seized, do, in opposition to the finding of such jury, insist that the sheriff or other officer shall sell the property, the officer shall not be compelled to make sale of the property until the party demanding the same shall enter into bond with sufficient security to indemnify such sheriff against all consequences that may arise from such sale: and the sheriff or collector shall receive for seizing and selling any property in collecting the public revenue or county levy, for all sums under one dollar, twenty-five cents; and for all sums above one dollar, six per centum, in addition thereto; and such sums to be detained out of the money arising from the sales of such property; and the same for collecting clerks' or other officers' fees, as for public taxes and county levies.

Sec. 2. *And be it further enacted*, That where any sheriff has returned any delinquent county levies, it shall be the duty of such sheriff (if in his power afterwards) to collect such levies while yet in office, and make return thereof to the county court once a year, together with the names of such delinquent persons, which shall be recorded by their clerk.

1803.  
Sheriffs to collect county levies from delinquents & account therefor.

Sec. 3. *And be it further enacted*, That the sheriffs of this commonwealth, shall be compelled to collect and account for the fees of each other, or for their predecessors in office, in the same manner and under the same penalties, as they are bound by law to collect and account for other officers' fees.

Also other sheriffs' fees,

Sec. 4. *And be it further enacted*, That the sheriffs shall receive the fees herein after mentioned for the following services, to wit: for serving a *scire facias*, fifty cents; for serving a *subpoena* in chancery, fifty cents; for serving a declaration in ejectment, for each defendant, seventy-five cents; for serving a writ of

Fees for certain services.

1803.

Allowance for  
horse hire.

*habere facias seisinam, or habere facias possessionem*, for each tenant, one dollar; executing an order of sale of attached goods, the same commission as on a *feri facias*; for all expenses and trouble in removing and keeping the estate taken by attachment or execution, such allowance (to be taxed as costs) as the court before whom the same is returned shall adjudge and order; for serving a *capias ad satisfaciendum*, if the debt be paid, or the plaintiff satisfied, the same commission as for serving a *feri facias*, but if the debt be not paid, one half of such commission; for procuring a horse for the purpose of conveying a criminal from one county to another county, for each day such horse shall be kept in said service, the sum of fifty cents; for dieting such criminal, for each day, fifty cents.

The sheriff of  
Franklin to at-  
tend the gene-  
ral court.

*Which*

Sec. 5. *And be it further enacted*, That it shall be the duty of the sheriff of Franklin county, to attend the general court, held in the state-house, in Frankfort. For performing such service he shall be entitled to receive (besides the usual sheriff's fees for services performed in the said court) a sum not exceeding one dollar and fifty cents per day, to be allowed by order of the said court.

This act shall be in force from the passage thereof.

#### CHAPTER CXV.

*An ACT making provision for the Attornies for the Commonwealth.*

Approved December 27, 1803.

WHEREAS in many of the circuit courts, established by law, attornies for the commonwealth have, by order of court, been permitted to appear and prosecute as such without any particular provision of law to that effect, relying on the liberality of the legislature for compensation: for the payment of such,

Sec. 1. *Be it enacted by the general assembly*, That the several circuit courts shall, as soon as may be, make an allowance (where that has not been already done) and certify the same to the county courts in which such circuit courts are held, who are hereby directed to pay the amount out of the levy for the year 1803, and collectable in 1804; and if a sufficiency has not been alrea-

dy levied, to levy the same by an additional levy on the titheables of their respective counties, at some county court, before the time at which the sheriff or collector is authorised to proceed to the collection of the levy of his or their county.

1803.

Sec. 2. And when the courts may not heretofore have made an allowance to their several attornies, and the same cannot be done so as to have the payment made out of the levy for the year 1803, and collectable in 1804; that the allowance, so made, shall be levied and paid out of the next county levy thereafter.

This act shall commence and be in force from and after its passage.

#### CHAPTER CXVI.

*An ACT regulating the Representation of this State.*

Approved December 27, 1803.

SECTION 1. *BE it enacted by the general assembly,* House of Re-  
That until the next enumeration shall be made, agreea- representatives, of  
ble to the constitution of this commonwealth, the house what number  
of representatives shall be composed of sixty-three mem- composed.  
bers, to be elected from the several counties, agreeable  
to a ratio of one representative for every six hundred Rates.  
qualified electors in the state, and apportioned among  
the several counties in the following manner, to wit:  
the county of Livingston one, the county of Christian Representation  
one, the county of Henderson one, the county of Logan how distributed  
one, the county of Muhlenberg one, the county of War-  
ren one, the county of Ohio one, the county of Barren  
one, the county of Cumberland one, the county of Wayne  
one, the county of Green one, the county of Hardin one,  
the county of Breckenridge one, the county of Bullitt  
one, the county of Jefferson two, the county of Nelson  
two, the county of Shelby two, the county of Henry one,  
the county of Washington three, the county of Franklin  
one, the counties of Pendleton and Campbell one, the  
counties of Gallatin and Boone one, the county of Scott  
two, the county of Harrison one, the county of Bracken  
one, the county of Mason three, the county of Fleming  
two, the county of Floyd one, the county of Montgo-  
mery two, the county of Clarke two, the county of Bour-  
bon three, the county of Nicholas one the county of

1803.

Fayette three, the county of Jessamine one, the county of Woodford two, the county of Mercer two, the county of Garrard two, the county of Pulaski one, the county of Lincoln two, the county of Madison three, the county of Knox one, and the county of Adair one.

Provision re-  
specting new  
counties.

Sec. 2. *Be it further enacted*, That if any new county shall be erected before the next enumeration in this commonwealth, and apportionment of representation, it shall be considered for the purpose of representation, as a part or parts of the county or counties from which it shall be taken.

Where sheriffs  
to meet to com-  
pare polls.

Sec. 3. *Be it further enacted*, That in order to ascertain the polls when two counties are added together for the purpose of choosing a representative, the sheriffs of such counties shall meet at the court-house of the county first named in the addition, on the sixth day after the election shall have commenced, inclusive of the first day; and having ascertained by faithful addition and comparison, the amount of their respective polls, shall make return in the manner prescribed by law, of the person elected.

Sec. 4. *And be it further enacted*, That the senatorial districts shall remain until the next enumeration, as they are at this time, and one senator shall be elected from each district, as heretofore.

This act shall be in force from the passage thereof.

## CHAPTER CXVII.

*An ACT concerning the Criminal Common Law of this State.*

Approved December 27, 1803.

WHEREAS the revisors of the criminal common law have completed the work and reported the same to the present general assembly, and as it is of the utmost importance to the due administration of justice, that the law arising in criminal cases should be properly ascertained, and a knowledge thereof generally diffused:

Sec. 1. *Be it enacted by the general assembly*, That whenever it shall appear by a proclamation of the governor, that the said revision has been distributed agreeably to this act, as hereinafter directed, the said revision shall be received and have such weight as it may be found entitled to in the courts of justice of this state.

## XII. YEAR OF THE COMMONWEALTH.

149

Sec. 2. *And be it further enacted*, That the printer of this commonwealth shall print or cause to be printed, one thousand copies of the criminal law as aforesaid, as soon as possible, and deliver the same to the secretary of state, who shall distribute them among the several persons entitled to receive the acts of assembly of this state : *Provided however*, that no person shall receive more than one copy.

1803.

Sec. 3. *And be it further enacted*, That as soon as the revision is published and delivered as aforesaid, the secretary shall certify the same to the auditor, who shall thereupon issue a warrant in favor of the printer, for five hundred dollars, in part payment therefor.

This act shall commence and be in force from and after the passage thereof.

### CHAPTER CXVIII.

*An ACT ratifying an amendment to the Constitution of the United States of America.*

Approved December 27, 1803.

WHEREAS it is provided by the fifth article of the constitution of the United States of America, that the congress, whenever two-thirds of both houses shall deem it necessary, shall propose amendments to the said constitution ; or on the application of the legislatures of two-thirds of the several states, shall call a convention for proposing amendments ; which, in either case, shall be valid, to all intents and purposes, as part of the said constitution, when ratified by the legislatures of three-fourths of the several states, or by conventions in three-fourths thereof, as the one or the other mode of ratification may be proposed by the congress : and whereas it appears by the communication of the president of the United States, to the governor of this state, that the eighth congress of the United States, at their first session, begun and held at the City of Washington, in the territory of Columbia, on Monday the seventeenth of October, one thousand eight hundred and three, entered into the following resolution, to wit :

Preamble.

*Resolved*, By the senate and house of representatives of the United States of America, in congress assembled, two-thirds of both houses concurring, that in

Resolution to amend the constitution U. S.

1803.

Proposed amendment.

lieu of the third paragraph of the first section of the second article of the constitution of the United States, the following be proposed as an amendment to the constitution of the United States, which when ratified by three-fourths of the legislatures of the several states, shall be valid, to all intents and purposes, as part of the said constitution, to wit:—"The electors shall meet in their respective states, and vote by ballot for president and vice-president, one of whom, at least, shall not be an inhabitant of the same state with themselves; they shall name in their ballots the person voted for as president, and in distinct ballots the person voted for as vice-president; and they shall make distinct lists of all persons voted for as president, and of all persons voted for as vice-president, and of the number of votes for each; which lists they shall sign and certify, and transmit, sealed, to the seat of the government of the United States, directed to the president of the senate: the president of the senate, shall, in the presence of the senate and house of representatives, open all the certificates, and the votes shall then be counted; the person having the greatest number of votes for president, shall be the president, if such number be a majority of the whole number of electors appointed; and if no person have such a majority, then from the persons having the highest numbers, not exceeding three, on the list of those voted for as president, the house of representatives shall choose immediately by ballot the president; but in choosing the president the votes shall be taken by states, the representation from each state having one vote, a quorum for this purpose shall consist of a member or members from two-thirds of the states, and a majority of all the states shall be necessary to a choice: and if the house of representatives shall not choose a president, whenever the right of choice shall devolve upon them, before the fourth day of March next following, then the vice-president shall act as president, as in the case of the death or other constitutional disability of the president. The person having the greatest number of votes as vice-president, shall be the vice-president, if such number be a majority of the whole number of electors appointed; and if no person have a majority, then from the two highest numbers on the list the senate shall choose the vice-president, a quorum for

## XII. YEAR OF THE COMMONWEALTH.

151

the purpose shall consist of two-thirds of the whole number of senators, and a majority of the whole number shall be necessary to a choice : but no person constitutionally ineligible to the office of president, shall be eligible to that of vice-president of the United States :” therefore,

1803.

*Be it enacted by the general assembly of the commonwealth of Kentucky,* That the aforesaid proposed amendment be, and it is hereby confirmed and ratified as a part of the constitution of the United States of America, in lieu of the third paragraph of the first section of the second article of the said constitution.

Ratification.

This act shall commence and be in force from and after the passage thereof.

## CHAPTER CXIX.

*An ACT giving further time to owners of certificates to survey.*

Approved December 27, 1803.

WHEREAS it is represented to the present general assembly, that the time for surveying certificates which have been granted by virtue of the several acts for granting relief to settlers south of Green river, and encouraging the settlers thereof, has expired ; and that there are a number of said certificates unsurveyed : for remedy whereof,

Sec. 1. *Be it enacted by the general assembly,* That the further time of two years be and is hereby allowed the owners of such certificates to survey the same and return plats and certificates therefor into the register's office ; and the register of said office is hereby directed to receive all such plats and certificates, and register the same as has heretofore been customary in similar cases.

Sec. 2. All surveys which have been made since the expiration of the time heretofore given for making surveys under the sanction of the aforesaid certificates, are hereby declared to be legal, any law or laws to the contrary notwithstanding.

Sec. 3. All acts or parts of acts which come within the purview of this act, are hereby repealed.

This act shall be in force from its passage.

1803.

## CHAPTER CXX.

*An ACT prescribing the mode of changing the Venue.*

Approved December 27, 1803.

*Vide Vol. II, Chap. 36.*SECTION 1. *BE it enacted by the general assembly,*For what causes  
the venue may  
be changed.Mode to be pur-  
sued to obtain a  
change of venuePapers how to  
be transmitted  
from one court  
to the other.Duty of the  
clerk receiving  
the papers.

That all suits cognizable in any of the circuit courts of this commonwealth, where either of the parties shall conceive that he, she or they will not receive a fair trial in the court where such suit is depending, owing to the interest or prejudice of any judge or judges of the said court, or the judges will not sit, or to the interest or prejudice of the clerk, sheriff, or coroner, where the sheriff or coroner is a party, or to the undue influence of his, her or their adversary or adversaries, or to the odium which attends the said party, or that his, her or their cause of action or defence, though legal, is odious; it shall and may be lawful for the party so suspecting he, she or they will not receive justice in the court then sustaining the said suit, owing to the said causes, or any of them, at any time to petition a circuit judge of the circuit courts of this commonwealth, for a change of venue for the said cause; which petition shall distinctly set forth the cause or causes why such fear is entertained, and be supported by the affidavit of the petitioner or petitioners; and it shall and may be lawful for said judge, on the receipt of said petition, supported by the affidavit aforesaid, under his hand to award a change of venue, and order the clerk of the court before whom the suit is then depending to send forward the papers in the said suit (by some meet person employed by the said clerk) to such court, having jurisdiction in similar cases, as the said judge may direct; and the clerk of such court shall receive the said papers, giving a receipt therefor, and docket the said suit in order with other causes; and the court to which the said papers are sent, shall be, and they are hereby vested with full power, authority and jurisdiction to award subpœnas for witnesses, to enforce their attendance, to grant commissions for taking depositions, to hear and determine the said controversy, to award execution, and to do all other matters and things relative thereto, which the said court from which the said cause was removed, might or could legally have done.



Sec. 2. *And be it further enacted*, That if any person or persons making oath to the truth of the allegations in his ~~or~~ her petition contained, for a change of venue, shall take a false oath, and be thereof convicted, he, she or they shall be adjudged guilty of perjury, and suffer the pains and penalties thereof: *Provided*, that the prosecution of such offence be commenced within twelve months after such offence is committed: *And provided also*, that no justice, sheriff or coroner charged as aforesaid, or adversary in the said cause, shall be admitted as a witness against the defendant in such prosecution.

1803.  
Penalty for taking a false oath, in order to procure a change of the venue,

*Carthair*

Sec. 3. *And be it further enacted*, That the expenses attending the removal shall be paid by the party praying the same; and the person who shall be entrusted to convey said papers to the clerk of the circuit court to which they shall be sent, shall and may receive the sum of five cents for each mile he must necessarily travel in going to and travelling from said clerk's office; which sum shall be paid into the hands of the clerk of the court where the said suit originated, before the papers shall be delivered out of his office.

Expenses of removal, by whom, & when to be paid.

Sec. 4. *And be it further enacted*, That the clerk of the court before whom the suit originated, shall be answerable for the fidelity of the person whom he may employ to convey said papers from his office to the office of the clerk of the court to which they shall be sent, but shall not be answerable for accidents not arising from neglect.

Responsibility of the clerk.

Sec. 5. *And be it further enacted*, That the venue in no case shall be changed unless the party who prays the same shall deposit the order of the judge, removing the same, together with the petition and affidavit aforesaid, (which shall be carefully preserved by the said clerk) and also the necessary expenses attending the removal, with the clerk having the custody of the said papers, at least thirty days before the court to which said suit shall be set for trial.

In what cases the venue shall not be changed.

Sec. 6. *And be it further enacted*, That no change of venue shall be granted so as to have the cause sent to either of the counties where the parties may reside, nor shall there be more than one removal of the same cause.

Cause not to be removed to the circuit where either of the parties resides. Notice to be

Sec. 7. *And be it further enacted*, That no change of venue shall be granted until the party applying for such change, shall produce to the judge to whom such appli-

given of the application for a change of the venue,

1803.

cation shall be made, sufficient proof that the opposite party has had ten days previous notice in writing, of the time and place such application is intended to be made, or in case of absence out of the county, to his, her or their agent, or attorney in fact, or attorney at law; which notice shall be certified by the judge granting such change, to the clerk where the suit was commenced. So much of every act or acts as comes within the purview of this act, shall be and the same is hereby repealed.

To commence.

This act shall commence and be in force from and after the first day of January next.

## CHAPTER CXXI.

*An ACT for the relief of persons who may have been or may be injured by the destruction of the Records of any Court.*

Approved December 27, 1803.

Preamble.

WHEREAS it is represented to the general assembly, that the office, papers and records of the clerk of the county court, and late court of quarter sessions of Fayette, have been destroyed by fire, since the last session of the general assembly, and that the governor has commissioned Thomas Lewis, Robert Todd, Henry Payne, Thomas Bodley, James Trotter, John A. Seitz, Walker Baylor, John Bradford, and John C. Richardson, commissioners, agreeably to an act of the Virginia assembly, which passed in the year 1787, entitled "an act for the relief of persons who have been or may be injured by the destruction of the records of county courts." and doubts existing as to the propriety of the commissioners acting under the said recited act:

Proceedings of  
certain commif-  
sioners made  
valid.

Sec. 1. *Be it therefore enacted by the general assembly,* That all the proceedings of the said commissioners shall be as valid and effectual as if they had proceeded under an act of the legislature of this commonwealth, similar to the before recited act of Virginia; and that the records collected and depositions taken by the said commissioners, shall be received and considered as legal evidence: *Provided, however,* that all contests respecting the contents of the said records and depositions, the fact in controversy shall be tried by jury, if either party desire it.

Proviso.

Sec. 2. *Be it further enacted*, That when the records of any court within this commonwealth, may have been destroyed by accident, or otherwise, it shall be the duty of such court, and they are hereby required, when any original deed with an endorsement of the acknowledgment or proof thereof, and order for recording the same, attested by the clerk of the court, or the copy of the deed, with the endorsement so attested, or any will with the endorsement of the proof and the order for recording of the same so attested, or of any other instrument of writing required by law to be recorded, having an endorsement of the proof thereon and order for recording the same so attested, or the copy of any judgment, decree, or order of court, in like manner attested, or the attested copy of any bond, bill, note or other paper, which had been filed and destroyed, shall be produced and offered to record, or order the same to be recorded; and the said clerk shall carefully file and preserve all such instruments or writing, so ordered to be recorded, and shall make a marginal note, in the record book, stating that the original had been lost or destroyed, and shall also make a similar endorsement on the said instrument of writing; and the records so made, and attested copies by the clerk, thereupon, shall be legal evidence: *Provided, however*, that in all contests respecting of the contents of said records, the fact controverted shall be tried by jury, if either party require it.

Sec. 3. *Be it further enacted*, That in any case where the original judgment or decree has been destroyed, and a copy thereof can be produced, or an execution which issued thereon, or a replevy or delivery bond taken by virtue thereof; it shall be lawful for the court, having the jurisdiction which the court rendering such judgment or decree possessed, to order an execution to issue upon the motion of the party, or his representative, in whose favor such judgment or decree was rendered: *Provided*, that the defendant shall have ten days previous notice of such motion in writing.

Sec. 4. *Be it further enacted*, That the clerk who may record any instrument of writing, pursuant to this act, shall receive the compensation therefor, as he may by law be entitled to for copying such instrument: but he shall receive no tax for recording any deed which had before been recorded; and where any original deed

1803.

Duty of courts  
whose records  
may be destroyed.

Proceedings  
where original  
judgments are  
destroyed.

Clerk's compensation.

1803.

and record thereof shall have been destroyed, as aforesaid, and a new deed shall be executed for the same land or property, the clerk shall demand no tax therefor upon the record thereof.

Duty of county courts in certain cases.

Sec. 5. *Be it further enacted*, That it shall be the duty of the county court in any case where the order appointing, or the bond executed by a guardian, executor or administrator shall be destroyed, to compel such guardian, executor or administrator to qualify again and execute a new bond with security agreeable to law.

Courts to appoint commissioners when records are destroyed.

Sec. 6. *Be it further enacted*, That when the records and papers of any court in this commonwealth shall be destroyed; it shall be lawful for the said court, or a majority of the judges or justices being present, to appoint five commissioners, who, or any three of whom, may act; and the said commissioners shall have power and authority to meet at some convenient time and place, as they may appoint, and to adjourn from time to time as they may think fit, giving such notice of the place and time of their meetings as the court may direct; and the said commissioners shall have power to appoint a clerk, and at the instance of any party to cause summonses to issue for witnesses, who shall have the like privileges and compensation, to be paid by the party procuring the attendance of the witnesses, as witnesses summoned to attend courts have; and the said commissioners shall take the deposition of any witness that may attend before them, relative to any record or paper so destroyed, which deposition shall be legal testimony; and the said commissioners shall continue in office one year; and shall cause the depositions by them taken, to be returned to the court appointing them, to be safely preserved by the clerk of such court.

Their powers.

And duty.

Sheriff to attend them.

Sec. 7. *Be it further enacted*, That the sheriff of the county in which such commissioners may act, shall attend them; and the said sheriff, clerk and commissioners shall each be entitled to one dollar for every day they shall respectively act, to be paid out of the county levy.

Allowances to certain commissioners.

Sec. 8. *Be it further enacted*, That the commissioners who have acted under the aforesaid appointment of the governor, and the clerk and the sheriff who have attended them, shall respectively be allowed one dollar per day, each, for every day they may have acted or shall

## XII. YEAR OF THE COMMONWEALTH.

187

act, to be levied, collected and paid out of the county levy of said county.

1803.

Sec. 9. *Be it further enacted*, That the commissioners appointed by the governor as aforesaid, may continue in office until the first day of July next, and shall have the like power and authority, and proceed in like manner as is herein before provided with respect to the commissioners to be appointed by the court whose records may be destroyed as aforesaid, advertising the times and places of their meeting in one of the gazettes of this state; and the record book and papers which the said commissioners have laid before the present assembly, shall be taken by the clerk of the county court of Fayette, and preserved in his office.

Further time to finish their business.

Sec. 10. *And be it further enacted*, That it shall be the duty of the clerk of Fayette county court, upon the application of any person who in consequence of the destruction of the office of the said county, has paid the tax twice on the same deed, to return to such person one of the taxes so paid, and the said clerk shall be credited accordingly in the settlement of his accounts with the auditor.

Clerk of Fayette to return taxes twice paid

Sec. 11. *And be it further enacted*, That Thomas Bodley, Thomas Arnold, and Willis Green, and they are hereby appointed commissioners to settle and adjust the accounts of the late clerk of the Fayette court of quarter sessions, for any taxes by him received, belonging to the commonwealth.

Commissioners appointed to settle his accounts.

This act shall commence and be in force from the passage thereof,

### CHAPTER CXXII.

*An ACT for laying an additional Tax, and for other purposes.*

Approved December 27, 1803.

SECTION 1. *BE it enacted by the general assembly*, That there shall be, in addition to the taxes to be collected in the year 1804, collected and accounted for by the auditor, register and the several sheriffs and collectors in this commonwealth, in the same manner as other taxes are, the following taxes, to wit: on every hundred acres of first rate land, twelve and a half cents; on every hundred acres of second rate land, eight cents

1803.

five mills ; on every hundred acres of third rate land, three cents two mills ; on every hundred pounds valuation of town lots, twenty-five cents.

Sec. 2. And whereas by an act passed at the last session of the general assembly, entitled "an act respecting the sales of lands for the non-payment of taxes, it was provided as follows, to wit: that when the tax due upon any tract of land, belonging to a non-resident, shall not be paid according to law, there shall be charged, by the auditor, fifty per centum per annum thereon, from the time such tax became due, until the same be paid ; and it has been doubted from what period the said interest ought to be calculated,

Sec. 3. *Be it therefore enacted*, That the said interest shall be calculated from the first day of October last. This act shall be in force from the passage thereof.

---

#### CHAPTER CXXIII.

*An ACT providing for the collection of the Revenue Tax in the county of Mason, for the year 1797.*

Approved December 27, 1803.

This act authorized the executive to appoint a collector, who was required to enter into such bond with such security as is required of sheriffs. The collector so commissioned, was permitted to appoint deputies, and was subjected to the like proceedings on part of the commonwealth, and entitled to the same remedies against his deputies, as sheriffs are. It required the collection of the revenue of the year 1797, from all the counties which had since been formed from Mason, as well as from what was Mason county at the time of the passage of this act.

---

#### CHAPTER CXXIV.

*An ACT for the removal of the Seat of Justice in the County of Livingston.*

Approved December 26, 1803.

This act appointed commissioners, directed them to be sworn to act impartially, and required them to fix the seat of justice in the centre of the inhabitable part of the county, exclusive of the Indian lands.

---

#### CHAPTER CXXV.

*An ACT permitting the withdrawing of Plats and Certificates from the Register's Office in certain cases, and returning others in lieu thereof.*

Approved December 27, 1803.

Peter Canine and Peter Purtle were claimants to 200 acres of lands, each, under the Green river land law. Their claims, when surveyed, interfered.

## XII. YEAR OF THE COMMONWEALTH.

189

They agreed between themselves to withdraw their plats and certificates, and re-survey—which this act permitted them to do.

1803.

### CHAPTER CXXVI.

*An ACT concerning the Levy of Henderson County.*

Approved December 12, 1803.

The act says that the county court had been prevented from laying the levy in the proper month, and permits it to be laid in December, then instant, or January next,

### CHAPTER CXXVII.

*An ACT authorising the Judges of the Mason Circuit Court to hold an additional Term.*

Approved November 10, 1803.

This additional term was to commence on the third Monday in December then next, and to continue three days, if the business should so long require it.

### CHAPTER CXXVIII.

*An ACT legalizing the proceedings of the County Court of Campbell.*

Approved November 24, 1803.

The proceeding legalized was holding court on an improper day.

### CHAPTER CXXIX.

*An ACT authorizing a Lottery for the benefit of the Lexington Medical Society.*

Approved December 17, 1803.

This act permitted the raising of 2000 dollars, required the drawers, examiners, clerks, and all others concerned, to be sworn, and a justice of Fayette to attend the drawing; and provided that if it was not drawn in 18 months, the purchasers of tickets might receive the purchase money again.

### CHAPTER CXXX.

*An ACT legalizing the proceedings of the Logan Circuit Court.*

Approved November 24, 1803.

Only an assistant judge attended on the first day of the term; he had adjourned the court from day to day, until the third day, when a court was formed. This was the proceeding legalized.

## NOVEMBER SESSION,

1803.

## CHAPTER CXXXI.

*An ACT for the removal of the Seat of Justice of Nicholas County.*

Approved December 26, 1803.

This repealed the act of last session, and fixed the seat of justice on the south side of Licking, at the place fixed on by the county court.

## CHAPTER CXXXII.

*An ACT authorising the erection of a Bridge over Hinkston's fork of Licking.*

Approved December 12, 1803.

This act authorised the co-operation of the county of Bourbon with Montgomery, for erecting and keeping in repair a bridge over Hinkston's fork of Licking, near Peyton's lick, in Montgomery county.

## CHAPTER CXXXIII.

*An ACT making compensation to the non-commissioned officers and privates of a certain Corps of Volunteers.*

Approved December 6, 1803.

This act originated in a contemplated expedition to Louisiana, in consequence of the occlusion of the port of New Orleans. It gave 150 acres of land to each volunteer who should descend the Mississippi, and serve out the time for which he was enlisted, unless sooner discharged, or to his legal representatives if he should die or be killed on the expedition, after he had left this commonwealth.

## CHAPTER CXXXIV.

*An ACT concerning the Marriage of Abraham Price.*

Approved December 22, 1803.

This act authorised him to sue in the Pulaski or Wayne circuit court, his wife, Sally Ann Price, for a divorce, and to obtain it on a jury's finding that she had, without cause, deserted him for the space of eight years, and had disposed of his property previous to the desertion.

## CHAPTER CXXXV.

*An ACT concerning the Marriage of Henry Chapeze.*

Approved December 1, 1803.

This act authorised him to sue in the Nelson circuit court for a divorce from his wife, Sarah Chapeze, and to obtain it on the jury's finding that she had deserted him, intermarried with another man, and was, and for a long time had been of loose and incontinent habits.



## CHAPTER CXXXVI.

1803.

*An ACT concerning the Marriage of Charlotte Wood.*

Approved December 22, 1803.

This act authorized her to sue in Mason circuit court for a divorce from her husband, Abraham Wood, and to obtain it on a jury's finding that he had deserted her for four years and eight months, and was either married to another woman, or lived in open adultery with one.

## CHAPTER CXXXVII.

*An ACT for the benefit of James Tilford.*

Approved December 26, 1803.

He was sheriff of Mercer. This act authorized the reception of a delinquent list, which had not been returned in time.

## CHAPTER CXXXVIII.

*An ACT for the benefit of the heirs of Asa Ruby, deceased.*

Approved December 23, 1803.

This act gave them a credit until they arrived at full age, for the state price of 200 acres of land, and remitted the interest.

## CHAPTER CXXXIX.

*An ACT authorising Mary M' Manus to sell certain Lots in the Town of Washington, for the purposes therein mentioned.*

Approved December 26, 1803.

These purposes were the supporting and educating her children.

## CHAPTER CXL.

*An ACT for the benefit of certain Printers in this Commonwealth.*

Approved December 9, 1803.

This act authorized the editor of the Western American, at Bardstown, the editor of the Independent Gazetteer, at Lexington, and the editor of the Weekly Messenger, at Washington, to publish in their newspapers all public advertisements whatever.

## CHAPTER CXLI.

*An ACT for the benefit of John Gardner.*

Approved December 6, 1803.

He had been summoned by the commonwealth as a witness against Elijah Craig, on the prosecution before the legislature; but the clerk of the com-

1803.

mittee had neglected to enter his attendance when he claimed it. This act allowed him 5 dollars and 50 cents.

## CHAPTER CXLII.

*An ACT for the relief of Thomas Moore.*

Approved December 26, 1803.

He was keeper of the turnpike road, and in the year 1803 had been robbed of 26l. 19s. 3d. which he had received as keeper afore said. This act entitled him to a credit therefor, in his settlement with the commissioners.

## CHAPTER CXLIII.

*An ACT regulating the Lincoln and Garrard Circuit Court Terms.*

Approved December 23, 1803.

By this act, the term of the Lincoln circuit court was extended to twelve days, and an additional term given in February (then) next. The terms of the Garrard were changed; the terms of Mercer, Madison, Montgomery and Floyd, were extended to twelve days, and the time of holding the courts in Clarke and Montgomery altered.

## CHAPTER CXLIV.

*An ACT for the benefit of John Davis and Melchi Couchman.*

Approved December 23, 1803.

They had some small claims accruing on the Wabash expedition, the certificates of which had been consumed by fire. This act directs warrants to issue for them.

## CHAPTER CXLV.

*An ACT for the relief of John Harbert.*

Approved December 9, 1803.

He was blind, and poor, and old; wherefore by this act he was released from payment for 200 acres of land, on which he had settled himself.

## CHAPTER CXLVI.

*An ACT for the relief of John Hardin.*

Approved December 27, 1803.

He had brought forward a number of charges against Elijah Craig, a justice of Gallatin, on which an impeachment was founded in 1801, and the charges supported, but for want of time was not determined; in consequence of which, the costs, amounting to 41 dollars 36 cents, fell on Hardin. This act directed him to be reimbursed from the treasury.

## XII. YEAR OF THE COMMONWEALTH.

163

### CHAPTER CXLVII.

1803.

*An ACT concerning Samuel Newell and William Bush.*

Approved December 24, 1803.

This act authorised each of them to locate 1000 acres of waste, barren, and mountainous land, to include some iron ore, which it is said they had discovered. They were to pay for it 20 dollars per hundred acres, to locate and survey it under the regulations of the Virginia land law of 1779.

### CHAPTER CXLVIII.

*An ACT for the relief of Robert Buckner.*

Approved November 30, 1803.

Buckner was one of the securities of William Morrow, sheriff of Bourbon. Morrow had become insolvent, and none of his securities, except Buckner, had any visible property. A judgment to a large amount had been obtained against him, and execution issued thereon. This act permitted a suspension of the execution until the first of the next November, on his giving bond with security.

### CHAPTER CXLIX.

*An ACT to amend the act entitled "an act for the benefit of John Jamison's heirs."*

Approved December 23, 1803.

*Vide* Chap. 65, of this Vol.

The present act authorised the commissioners to sell the whole tract, about 40 acres, on which the mill was situated; and one of the commissioners having refused to act, another was appointed.

### CHAPTER CL.

*An ACT for the relief of James Kennedy.*

Approved November 30, 1803.

He was administrator and residuary legatee of William Kennedy. Benjamin Beall having become the proprietor of the whole estate, real and personal, Kennedy's further interference was rather embarrassing than beneficial. Wherefore this act released him from the administration.

### CHAPTER CLI.

*An ACT providing for the conditional Divorce of Nancy Bartholemey.*

Approved December 17, 1803.

This act permitted her to sue in the Campbell circuit court for a divorce from her husband, Francis Bartholemey, and to obtain it on a jury's finding that he had abandoned her, and was living in adultery with Peggy Snellin, and did not intend to return.

- 1803.

## CHAPTER CLII.

*An ACT for the relief of Mary Rice and her family.*

Approved December 6, 1803.

This act appointed commissioners, and authorized them to sell and convey 100 acres, part of a 200 acre tract in Garrard county, for the payment of the debts of her late husband, and for the support of her children.

## CHAPTER CLIII.

*An ACT to alter the times of holding Courts in certain Counties.*

Obsolete.

Approved December 26, 1803.

## CHAPTER CLIV.

*An ACT authorising the sale of certain Lands, of which William P. Smith died seized and possessed.*

Approved December 26, 1803.

The sale was to be made for the payment of his debts, he having died intestate, and commissioners were appointed to make it.

## CHAPTER CLV.

*An ACT for the relief of Jeremiah Shelton.*

Approved December 6, 1803.

In consideration of his having become blind, this act released him from paying the state price for 200 acres of land.

## CHAPTER CLVI.

*An ACT for selling a tract of Land and Mill, of which John Kennedy died seized and possessed.*

Approved December 3, 1803.

The property mentioned had not been distributed by the decedent. The heirs, who were of age, and the guardians of the minors, wished a sale to be made. This act appointed commissioners to sell it, on advertising the sale two months in the Bardstown paper: but it required the county court of Nelson to appoint three persons to value it on oath, and declared the sale to be void, if it did not sell for as much as such valuation.

## CHAPTER CLVII.

*An ACT for the relief of Israel M'Grady, Sheriff of Logan County.*

Approved December 27, 1803.

This act allowed him six months longer to complete his collections, in consideration of late sickness.

XIII. YEAR OF THE COMMONWEALTH.

165

CHAPTER CLVIII.

1804.

*An ACT for the benefit of the heirs of Abraham Bonta, deceased.*

Approved December 23, 1803.

He had died intestate, leaving nine children his heirs at law, three slaves and 400 acres of land, which could neither be rented or divided to any advantage. This act appointed commissioners to sell the whole estate, and distribute the price.

CHAPTER CLIX.

*An ACT for the appropriation of Money.*

Approved December 27, 1803.

The ordinary appropriation bill.

---

November Session, 1804.

CHAPTER CLX.

*An ACT to authorise and compel the Circuit and County Courts for Livingston County, to hold their respective Courts at the place fixed by the Commissioners for erecting the Public Buildings for Livingston County.*

Approved November 24, 1804.

CHAPTER CLXI.

*An ACT to amend an act entitled "an act to reduce into one the several acts concerning Bairdstown, in Nelson County."*

Approved November 24, 1804.

WHEREAS by an act of the general assembly, passed on the 15th day of December, eighteen hundred and two, the free white male citizens of Bairdstown, in Nelson county, were authorised and empowered to elect annually, on the first Saturday in April, seven trustees for said town; and on the first Saturday in April, eighteen hundred and four, the election for the said trustees was unavoidably omitted, and it is doubtful whether, under the said recited act, the citizens of the said town can proceed to an election on the first Saturday in April next:

Preamble.

1804.

Trustees, how  
elected.

Sec. 1. *Be it enacted*, That the citizens of the said town, shall have full power and authority to elect, on the first Saturday in April next, seven trustees; which said trustees so elected, under the rules and regulations of the said recited act, shall, to all intents and purposes, be, and they are hereby declared trustees for the said town, with all authority, powers, and privileges, as if no such omission had taken place.

Regulations in  
case election o-  
mitted.

Sec. 2. *And be it further enacted*, That whenever, hereafter, an election for trustees for said town may, by any cause whatever, be omitted, it shall be the duty of any justice of the peace, for Nelson county, on application of any three freeholders in said town, to advertise and cause an election of trustees for said town, to be held in the manner prescribed by the said recited act.

Penalty on truf-  
tees failing to  
perform their  
duty.

Sec. 3. *And be it further enacted*, That whenever a trustee so elected shall refuse or neglect to perform the duties enjoined on the trustees by the said recited act, he or they shall forfeit and pay the sum of six dollars, to be recovered as fines and forfeitures are recovered by the said recited act, and applied to the use of the town.

Trustees to lay  
tax.

Sec. 4. The said trustees shall have power to lay, annually, on the citizens of the said town, any sum not exceeding fifty dollars, in addition to the sum allowed by the said recited act, to be laid out in the same manner and for the same purposes as is stated in the said recited act.

This act shall be in force from its passage.

## CHAPTER CLXII.

*An ACT to amend an act entitled "an act for the benefit of the heirs of Abraham Bonta, deceased."*

Approved November 24, 1804.

The act referred to, had directed a credit of 18 months to be given. This act directed the land to be sold for payment in three annual instalments; the whole to be clear of interest for one year from the day of sale.

## CHAPTER CLXIII.

*An ACT providing for the opening of a Road from Thomas Green's, near the mouth of Triplett, on Licking River, to Big Sandy River.*

Approved November 24, 1804.

Preamble.

WHEREAS it has been represented to the present general assembly, that a useful road can be made, from

Thomas Green's farm, near the mouth of Triplett, on Licking river, in Fleming county, passing the Little-Sandy salt-works, to Big-Sandy river, to intersect the road opened by the state of Virginia; and great advantages will be derived to the citizens of this commonwealth, as it is the most direct way to the Federal City, and the Atlantic states, and as it will be of great convenience to drovers and travellers, in their commerce to the eastern ports: therefore,

1804.

Sec. 1. *Be it enacted by the general assembly*, That James French, John M'Intire, and William Orear, commissioners, are hereby appointed to let the opening the said road, from Thomas Green's farm, near the mouth of Triplett, on Licking river, in Fleming county, to Big-Sandy river, at the junction of the road opened by the state of Virginia, to the lowest bidder, provided the lowest bid shall not exceed one thousand dollars.

Commissioners appointed, and for what purpose.

Sec. 2. *Be it further enacted*, That if any person undertakes to open the said road, the said commissioners shall take his bond, with approved security, in the penalty of two thousand dollars, payable to the governor and his successors, to open the said road as marked by John M'Intire, fifteen feet wide, removing all fallen timber, and to dig down the banks of creeks, so that it will be of easy passage to horsemen and drovers, and to have the said road cleared out in twelve months from the day of undertaking the same.

Undertaker to give bond and security.

His duty in opening the road.

By what time.

Sec. 3. *Be it further enacted*, That when the undertaker shall prove to the said commissioners that he has opened the said road, according to his contract, the said commissioners, or a majority of them, shall certify the amount, which the undertaker shall receive, to the auditor of public accounts, and he is hereby directed to issue his warrant on the treasury accordingly.

How he is to be paid.

Sec. 4. *Be it further enacted*, That the said commissioners shall advertise two months at the court-house doors of Montgomery and Fleming counties, that the letting the said road to the lowest bidder will be at Montgomery court-house, on the first Monday in March next, agreeably to this act.

The letting of the road, where and where to be done.

Sec. 5. *Be it further enacted*, That the said commissioners shall, after taking the bond aforesaid, from the undertaker, deposit the same with the clerk of Montgomery circuit court, within ten days after taking the

Bond of the undertaker, where to be deposited.

1804. *And how to be proceeded on.* same. *And provided,* that if the undertaker fails to comply with his contract, the said commissioners are hereby authorised to bring suit against the said undertaker as is provided for in other cases of the like nature, and the damages recovered on such suits shall be appropriated by the said commissioners to the opening of the said road.

This act shall commence and be in force from and To commence. after the passage thereof.

---

#### CHAPTER CLXIV.

*An ACT for the relief of the heirs of Jacob Pennington, deceased.*

Approved November 24, 1804.

The ancestor had paid into the treasury 20 dollars for the purchase of Green river lands, which, by mistake, had been appropriated to a wrong certificate. This act, in behalf of his heirs, rectified the mistake.

---

#### CHAPTER CLXV.

*An ACT giving further time to the owners of Plats and Certificates of Survey, to return the same to the Register's Office.*

Approved November 24, 1804.

*Vide Vol. I, Chap. 38, and the prelection.*

*BE it enacted by the general assembly,* That the further time of two years shall be allowed the owners of plats and certificates of surveys, made before the time for surveying entries expired, to return the same into the register's office; in which time the register of the land-office shall receive all such plats and certificates of survey, although not returned within the time limited by law, and such lands shall not be considered forfeited or liable to forfeiture on that account; any law to the contrary notwithstanding.

This act shall commence and be in force from and after the passage thereof.



## CHAPTER CLXVI.

1804.

*An ACT to amend an act entitled "an act to amend and reduce into one the several acts concerning Constables, and authorising Coroners to summon a Jury."*

Approved November 24, 1804.

*Vide* Vol. I, Chap. 62, and Chap. 101, of this Vol.

*BE it enacted by the general assembly,* That the sheriffs in this commonwealth shall receive the same fee for apprehending a person on a charge of felony, as is allowed constables by the eleventh section of the above recited act; and the auditor of public accounts is hereby authorised and directed to issue his warrant on the treasury for all sums for the services aforesaid which may have been rendered since the passage of the above recited act, or which may hereafter be performed, upon the sheriff's or constable's producing a certificate from the county court of such services having been rendered, any law to the contrary notwithstanding.

This act shall be in force from the passage thereof.

## CHAPTER CLXVII.

*An ACT giving one additional term to the Circuit Court for Lincoln and Knox Counties.*

Approved December 1, 1804.

The additional term here given was only temporary—it was to commence on the fourth Monday in the January following, and continue 18 days.

## CHAPTER CLXVIII.

*An ACT to amend an act entitled "an act for the restraint, support and safe keeping of persons of unsound mind."*

Approved December 1, 1804.

*Vide* Vol. I, Chap. 117.

WHEREAS it appears to the general assembly that the above recited act hath not, in every instance, provided for the payment of the expense incurred by committees on account of the persons of unsound mind committed to their charge:

*Be it enacted by the general assembly,* That if any person of unsound mind, whose estate hath not been, or shall not be sufficient to support his family and himself,

1804.

shall have been or shall hereafter be committed to the care of any person or persons, as his committee, and shall have died, or shall hereafter die when under the care of such committee, the said committee shall be authorised to present his or their account of funeral expenses incurred on account of such person of unsound mind, to the court who shall have appointed him or them, and the same being certified as just by the said court to the auditor of public accounts, and shall by him be discharged, in like manner with other expenses incurred in maintaining persons of unsound mind: *Provided*, such allowance shall in no case exceed the sum of ten dollars.

This act shall commence and be in force from and after the passage thereof.

~~~~~  
CHAPTER CLXIX.

*An ACT for the relief of Edward Russell.*

Approved December 1, 1804.

He had lost a certificate for 5l. 10s. This act directed the auditor to issue a warrant for it.

~~~~~  
CHAPTER CLXX.

*An ACT for the relief of Mary Bundy.*

Approved December 1, 1804.

This act authorised her to sue in the Montgomery circuit court, for a divorce from her husband, George Bundy, and to obtain it on a jury's finding that he had been guilty of bestiality and larceny.

~~~~~  
CHAPTER CLXXI.

*An ACT authorising the County Court of Livingston County to lay their County Levy for the year 1804.*

Approved December 1, 1804.

They were authorised to lay it in the months of February, April or May.

~~~~~  
CHAPTER CLXXII.

*An ACT to authorise the County Court of Fayette to open or extend any Street in Lexington through the outlots thereof.*

Approved December 1, 1804.

SECTION 1. *BE it enacted by the general assembly,*  
That the county court of Fayette be, and they are here-

### XIII. YEAR OF THE COMMONWEALTH.

171

by authorised and empowered to permit and direct to be opened or extended, any street in the town of Lexington, through any out-lot or lots therein, under the same rules and regulations as the county courts of this commonwealth are now by law authorised to open roads. *Provided*, that the said street, so to be opened or extended, shall not pass through any in-lot without the consent of the owner thereof.

1804.

Sec. 2. *And be it further enacted*, That the said county court of Fayette may establish the street, so opened or extended, of any width they may deem proper, not exceeding sixty feet, which shall be expressed in the order establishing such street.

#### CHAPTER CLXXIII.

*An ACT extending the Term of the Jessamine Circuit Court.*

Approved December 1, 1804.

*BE it enacted by the general assembly*, That the circuit court for the Jessamine circuit, at their next April term, may sit twelve judicial days, provided the business thereof require it.

This act shall be in force from its passage.

#### CHAPTER CLXXIV.

*An ACT for the relief of John Lewis.*

Approved December 6, 1804.

In consideration of his being totally blind, this act released him from the payment of 35 dollars, it being the balance of the state price for 200 acres of land.

#### CHAPTER CLXXV.

*An ACT for the conditional Divorce of Rachel Branham.*

Approved December 6, 1804.

This act authorised her to sue in Garrard county, for a divorce from her husband, John Branham, and to obtain it on a jury's finding that he had deserted her, had married to, or was living in open adultery with another woman, had a long time abandoned the plaintiff, and was of loose and incontinent habits.

## NOVEMBER SESSION,

1804.

## CHAPTER CLXXVI.

*An ACT giving Alvin Montjoy the further time of one year to erect a Slope upon South Licking.*

Approved December 6, 1804.

He had purchased James Lanier's mill-seat (*Vide* Vol. II, Chap. 232), and had erected a dam, which had been carried away by high water. He erected another; and this act gave him time until one year from the first of March, 1805, to erect a slope.

## CHAPTER CLXXVII.

*An ACT adding a small part of Cumberland to Adair County.*

Approved December 6, 1804.

*BE it enacted by the general assembly,* That that part of Cumberland county on the north side of Cumberland river, above a line beginning at the mouth of Blackfish creek, on the north side of the river, and a little below the mouth of Indian creek, on the south side, from thence a due west course to the line dividing the counties of Cumberland and Adair, shall be and the same is hereby added to the county of Adair.

This act shall commence and be in force from and after the passage thereof.

## CHAPTER CLXXVIII.

*An ACT erecting sundry Counties into Election Precincts.*

Approved December 6, 1804.

Greenup county erected into an election precinct.

Sheriffs to meet at Mason court-house, & when.

Former act repealed.

SECTION 1. *BE it enacted by the general assembly,* That the county of Greenup is hereby erected into an election precinct; and the county court of the said county shall in every respect be governed by an act regulating elections, passed December the 21st 1799; and the sheriff of the said county shall meet the sheriff of Mason county at the court-house of Mason county, on the fifth day from the commencement of the election, and they having ascertained by comparing the polls and making a faithful addition thereof, the persons duly elected, shall certify and make return thereof as the above recited act requires. And so much of an act for dividing certain counties in this state into election precincts, passed Dec. 15th 1800, as erects that part of Mason coun-

ty called the Sandy precinct into an election precinct, shall be and is hereby repealed. And the county court of Greenup shall be, and they are hereby directed to make such allowance as they may deem reasonable, not exceeding one dollar and fifty cents per day, in going to and returning from the court-house in Mason county, to compare the polls as aforesaid.

1804.

Allowance  
made, what, &  
how to be paid.

Sec. 2. *Be it further enacted*, That the county of Adair shall be divided into two election precincts, by a line beginning where the line between Cumberland county and Adair county crosses Crocus creek, up the said creek to the mouth of the Trace fork, up the Trace fork to the head thereof, from thence a straight line to cross Russell's creek at the mouth of Reynold's creek, from thence a straight line passing John Breeding's settlement, on Green river, to the Lincoln line.

Sec. 3. *And be it further enacted*, That the county of Floyd shall be divided into two election precincts, by a line beginning on the dividing ridge between the waters of Sandy and Kentucky rivers, where the state line crosses the same; thence along the said ridge to the head waters of Quicksand creek, thence with the dividing ridge between the same and the Kentucky river, and continue the course thereof to the said Kentucky river.

Sec. 4. *And be it further enacted*, That all that part of Knox county being east of Browney's creek, shall compose an election precinct, and the residue of said county shall compose another precinct.

Sec. 5. *And be it further enacted*, That the county of Henderson shall be divided into two election precincts, by a line beginning at the mouth of Deer creek, on the Green river, thence up the said creek to the mouth of Black's and Newman's Sugar Camp branch; thence up the same to the head thereof; thence such a course as will strike the Crab Orchard fork of Tradewater, at the nearest part; thence down said fork to a large lick, about two miles above the mouth of the Caney fork; thence a south west line to Tradewater.

Sec. 6. *And be it further enacted*, That the county of Ohio shall be divided into two election precincts, by a line to begin at the intersection of the county line with the great road leading from Hardinsburg to the Yellow-Banks; thence to the Crane pond on Panther creek;

1804.

thence to a point five miles due south of the house of Benjamin Fields; thence to the mouth of Long Fall run.

Warren.

Sec. 7. *And be it further enacted*, That the county of Warren shall be divided into two election precincts, by a line to begin on a bluff of Barren river, one half mile below John Williby's; thence a direct line to the mouth of the Barren fork of Drake's creek; thence up the Barren fork to the Logan county line; thence with the Logan county line to the Tennessee line; thence with the Tennessee line to Barren county line; thence with Barren county line to Barren river; thence down the river to the beginning.

County courts  
to appoint places  
for holding  
elections.

Sec. 8. *And be it further enacted*, That the county courts of the aforesaid counties shall appoint the places for holding the elections in precincts hereby directed, in which the county court-house shall not be, and the other at the court-house as heretofore, under the same rules and regulations as are prescribed by an act passed the 21st day of December 1799, regulating elections.

This act shall commence and be in force from its  
To commence. passage.

#### CHAPTER CLXXIX.

##### *An ACT for the relief of Polly M'Neff.*

Approved December 6, 1804.

This act authorized her to sue in Washington county, for a divorce from her husband, John T. M'Neff, and to obtain it on a jury's finding that he had a wife living at the time he married her, and that he had deserted her for the space of two years, or failed to contribute any thing to the support of herself and her children, or that he had since married to, or was living in adultery with another woman.

#### CHAPTER CLXXX.

##### *An ACT for the benefit of Richard Taylor.*

Approved December 8, 1804.

This act allowed him 10 dollars 50 cents per week, for his services as sergeant at arms for the house of representatives, and 53 dollars for fuel furnished both houses during that session.

#### CHAPTER CLXXXI.

##### *An ACT for the relief of M. W. Hall, Collector of Barren County for the year 1802.*

Approved December 10, 1804.

From some mistake in the commissioner's books, he was charged with 64 dollars more than his own copy authorized him to collect. This act autho-

rified the circuit court of his county to enquire into it, on motion made by the collector, and notice given to the attorney for the commonwealth.

1804.

## CHAPTER CLXXXII.

*An ACT for the relief of Robert Hunter, Collector of Scott County for the year 1802.*

Approved December 10, 1804.

From accident and misfortune he had failed to return a delinquent list in time. This act allowed him a credit for it.

## CHAPTER CLXXXIII.

*An ACT repealing so much of former laws as prevents the appropriation of Salt Licks, Springs, Mines of Mineral or Ore, by Settlement Claims.*

Approved December 10, 1804.

WHEREAS by the laws heretofore passed for improving and settling the vacant lands south of Green river, salt springs and licks, as also mines of mineral or ore, with 1000 acres of land around the same, have been reserved to the use of the commonwealth; and it now appears to the general assembly, that to prevent the improvement and settlement of said lands, and working such salt springs, and licks, and mines of mineral or ore, is impolitic: therefore,

Sec. 1. *Be it enacted by the general assembly, That if any person, holding a settlement claim, has included therein, under any former law, any salt spring or lick, or any mine of mineral or ore, or may hereafter include in his claim, any such lick or spring, or mine of mineral or ore, such claimant may obtain a patent therefor, upon his or her paying into the treasury of this state, the state price required by the law under which the said claim was granted; and no claim including therein any such salt lick or spring, or mine of mineral or ore, shall be subject to forfeiture. Provided, however, that no tract of land, heretofore taken up, shall be granted to the taker up thereof, or to any other person, under this act, until the price stipulated for said tract by the act of assembly under which the same shall have been taken up, shall be fully paid, before a grant shall issue therefor. And no person who shall have taken up land under any special act of assembly, authorising the same, shall be per-*

1804.

mitted to withdraw his certificate therefor, but the said land shall continue to be liable to the commonwealth for the price affixed thereon, by the special act of assembly authorising its appropriation. All acts or parts of acts coming within the purview of this act, shall be and the same are hereby repealed.

This act shall commence and be in force from and after the passage thereof.

## CHAPTER CLXXXIV.

*An ACT more effectually to suppress the practice of Gaming.*

Approved December 10, 1804.

Tax on billiard  
tables.

SECTION 1. *BE it enacted by the general assembly,* That there shall be annually levied and collected, a tax of one hundred dollars on each billiard table within this commonwealth, in the same manner, and under the same rules and regulations as other taxes are.

Table kept up  
and used, liable  
to be taxed.

Sec. 2. *And be it further enacted,* That every billiard table which shall be kept up and used for the purpose of playing thereon, at any one time within the year, shall be considered as though it had been continued for the purpose of playing thereon for the whole year.

Lien on the ta-  
ble.

Sec. 3. *And be it further enacted,* That this state shall have a perpetual lien on every billiard table for the amount of the tax, interest, and cost due thereon; and the owner, possessor and occupier of any billiard table, shall moreover be subject to the payment of any deficiency which may remain due, and which shall not be made by the sale of any such table, in the same manner as for other taxes.

Who are liable  
for the tax.

A B C and o-  
ther tables, the  
use of them,  
how to be sup-  
pressed.

Sec. 4. *Be it further enacted,* That it shall be the duty of every justice of the peace, upon his own view, or who shall receive information of the exhibition of any A B C or E O table, or other table, bank, wheel, machine, or other contrivance whatsoever, used for the purpose of betting or winning money, lands, tenements, goods or chattels, where it shall come or be within his own knowledge or view, immediately to proceed by himself, or when he shall receive information thereof, to issue his warrant, directed to the sheriff or any constable of the county, for that purpose, and in every case such justice, sheriff, or constable, shall, and they are

Justice may  
proceed upon  
view, or issue  
his warrant.

Sheriff or con-  
stable may exe-  
cute it, &c.



hereby authorised to call upon any number of persons which he or they may think proper to assist in seizing and destroying, by burning or otherwise, every such table, bank, wheel, machine, or other contrivance, used for the purpose aforesaid; and for which purpose the said justice is authorised and directed, and every sheriff or constable, having a warrant issued as aforesaid, which shall set forth therein such authority, shall and may proceed to break open any house, or the doors thereof, in which such table, wheel, bank, machine, or other contrivance, as aforesaid, may have been exhibited or lodged for safe keeping. And it shall also be the duty of such justice to commit to the jail of his county, or cause to be apprehended by his warrant aforesaid, the owner or exhibitor of such table, bank, wheel, machine, or other contrivance, as aforesaid, to be dealt with according to law. And any person called upon, as aforesaid, and refusing to obey the said justice, sheriff, or constable, shall, for every offence, forfeit and pay ten dollars, on complaint before any justice of the peace; and every justice, sheriff, or constable, failing to perform any of the duties required by this act, shall forfeit and pay one hundred dollars, one half to the informer, and the other to the use of the commonwealth, before any court having competent jurisdiction.

1804.

Tables, &c.,  
may be seized  
and burnt.

Sheriff, &c.,  
may break open  
houses, &c.

The owner or  
exhibitor to be  
apprehended.

Penalty for re-  
fusing to obey  
justice, sheriff,  
&c.

Penalty on jus-  
tice, sheriff, &c.  
for failure in  
their duty.

This act shall commence and be in force from and after the passage thereof.

To commence.

## CHAPTER CLXXXV.

*An ACT concerning the Court of Appeals.*

Approved December 10, 1804.

SECTION 1. *BE it enacted by the general assembly,* That no appeal shall be granted to the court of appeals, or writ of error sued out from the court of appeals, except in cases where a final decree hath been pronounced, judgment rendered, or order made.

Sec. 2. That hereafter the court of appeals in their adjournment, shall not be limited to fifteen days, but may adjourn to any time prior to the commencement of the succeeding term. That where from sickness or other cause a court cannot be had to adjourn as aforesaid, one or more of the judges who can attend, may make the adjournment.

*B. And*

1804.

Sec. 3. The second section of the act passed in the year 1801, entitled "an act to amend the act entitled an act establishing the court of appeals, and for other purposes," shall be, and the same is hereby repealed.

This act shall be in force from its passage.

#### CHAPTER CLXXXVI.

*An ACT to amend an act entitled "an act for the relief of persons who have been or may be injured by the destruction of the Records of any Court."*

Approved December 11, 1804.

WHEREAS the papers and records of the clerk's office of the county and late quarter session courts for Fayette county, were destroyed by fire; and in consequence of said destruction, the late governor appointed commissioners under the law of Virginia to supply and remedy such loss: and whereas it is represented that the time allowed said commissioners is insufficient to answer the valuable purposes contemplated:

*Be it therefore enacted by the general assembly,* That the commissioners aforesaid appointed by the late governor as aforesaid, and whose proceedings were confirmed and time prolonged by an act of the Kentucky general assembly, passed December 27th 1803, entitled "an act for the relief of persons who have been or may be injured by the destruction of the records of any court," shall continue in office until the first day of January 1808; and said commissioners shall have like power and authority, and proceed in like manner as is herein before provided by the above recited act with respect to the commissioners to be appointed by the court whose records may be destroyed, and shall advertise the times and places of their meeting in one of the gazettes of the state, and their proceedings shall have the same validity as the above recited act has given to their former proceedings, and no more.

This act shall be in force from its passage.

#### CHAPTER CLXXXVII.

*An ACT for the relief of the Collector of Livingston County.*

Approved December 11, 1804.

This act gave him until the first of April to make his settlement with the auditor.

*Given too  
much*

## CHAPTER CLXXXVIII.

1804.

*An ACT to amend an act entitled "an act for the benefit of the heirs of Asa Rubey, deceased."*

Approved December 11, 1804.

The former act went on the idea that there was only 200 acres of land, when, in fact, there was 400. This act extended the provisions of the former to the whole claim.

## CHAPTER CLXXXIX.

*An ACT for the relief of the Sheriff of Montgomery County.*

Approved December 11, 1804.

The auditor's book contained 74 dollars 37 cents more in the revenue of 1803, than the copy given to the sheriff. This act gave the sheriff a present credit for that sum, and directed the auditor to send his book to the clerk of Montgomery, for re-examination.

## CHAPTER CXC.

*An ACT for the benefit of the heirs of Laurence Ver Bryke, deceased.*

Approved December 11, 1804.

He had died intestate, leaving three young children, and 100 acres of land, in Mercer county, which could not be rented to any advantage. This act authorized a sale of it.

## CHAPTER CXCI.

*An ACT providing for the conditional divorce of David Landreth.*

Approved December 11, 1804.

This act authorized him to sue in Logan circuit court, for a divorce from his wife, Delilah, and to obtain it on a jury's finding that she had deserted his bed and board for some years past, and had been found in the act of adultery.

## CHAPTER CXCI.

*An ACT to provide for the collection of Tax from persons omitted by the Commissioners.*

Approved December 12, 1804.

*Vide* Vol. I, Chap. 10, and the preface.

SECTION 1. *BE it enacted by the general assembly,* County courts That it shall not be lawful for the county courts to allow a credit for any delinquent's list, until the following oath has been administered to the sheriff or collector

not to allow credits. Sheriff to swear to the list.

1804.  
 The oath. returning such list, to wit: "You do solemnly swear that this list of insolvents and delinquents which you have made out, and is now before the court, is just and true, to the best of your knowledge; and that you will well and truly answer, and the truth declare, to such questions and such enquiries as the court, or any member thereof, may propound or ask, touching this said delinquent list—so help you God." And the court shall then proceed by strict enquiry to canvass and ascertain the truth of the list, and shall disallow whatever part they may think proper, and erase the same. Two lists shall be made out, one of the revenue, and one of the county levy, in each of which the sheriff shall point out insolvents, and in case of removals, to what county or state removed, the time when such removal took place; which then being subscribed by his name, shall be admitted; the levy list as a credit to the county levy, and the revenue shall proceed as is provided by the laws of this state.

Duty of county court. Sec. 2. And it shall be the duty of the court to take possession of all lists of delinquent's levies, and provide and order such measures to ensure the collection thereof, as to them may seem most expedient, either by replacing them entire or in part, in the hands of the sheriff returning them, or in the hands of any other sheriff or constable, or may order their clerk to draw off such part as they may think proper, and cause him to transmit them to such county or counties as may be mentioned in the sheriff's list, unless better information can be had, which shall in all and every case here provided, be receipted, collected and accounted for, as other county levies now are by law.

Sheriff's duty. Clerk's duty.

Sheriff to return defaulters. Sec. 3. It shall be the duty of every high sheriff to make a fair return of all delinquents and insolvents that may have accrued, or which he or any of his deputies may have been credited with during the time of his sheriffalty, to the county court next preceding the expiration of his office as a sheriff, and shall state at large, agreeable to the best information he can get, the place of abode of such delinquent and insolvent therein mentioned. And also a full and perfect account of all and every collection made on such delinquent list or lists. And on failure herein, without a reasonable excuse, to be judged of by the court, he (the sheriff) shall be made

Regulations respecting sheriff.

a debtor to the full amount of all delinquent levies remaining in his hands, and shall be bound to answer therefor as for other arrearages in the hands of delinquent sheriffs are by law now bound to answer; and in case the sheriff complies herein, and makes a true return of all delinquents as aforesaid, the court shall then make such orders and provisions for the complete collection thereof, as to them may seem most fit, conformable and agreeable to the measures herein provided, and the laws now in force in this commonwealth.

1804.

Sec. 4. It shall be the duty of every commissioner of the tax, at the time he is taking in the taxable property, to make out a list of all persons whose property has not been taken in at any preceding year, and shall return the same, together with a list of the taxable property, on a distinct part of his book; and this duty shall be given in charge as a part of the oath, at the time the commissioners are sworn agreeable to law. And it shall be the duty of all persons, when called on for that purpose, to give in such list upon oath, under the same regulations, and subject to the like penalties, as in other cases of refusing, failing, or in giving a false list, as is now prescribed by law.

Regulations re-  
specting com-  
missioners.

CHAPTER CXCIH.

*An ACT concerning the Woodford Academy.*

Approved December 12, 1804.

WHEREAS it is represented to the present general assembly that the trustees of the Woodford academy are anxious to proceed to the erection of public buildings for the use of said academy, and have already procured a considerable sum of money by private donation, for the purpose of carrying their intentions into effect:

*Be it enacted by the general assembly,* That the title of the land granted to the Woodford academy, by an act of assembly, passed in the year 1798, be and the same is hereby vested in John Jouitt, William Steele, Marquis Calmes, Richard Young, George Brooke, William Vawter, Benjamin Temple, Harman Bowmar, Reuben Twyman, Charles Railey, Nathan Dedman, Thomas Eastland, and John O'Bannon, trustees to said academy, and their successors in office; and the said trustees, or a majority of them, are hereby authorised

*E*  
*Knott's*  
*ms*

1804.

and empowered to sell, lease, or rent the whole or any part of said land, granted to said academy, and make a deed or deeds, in fee simple, to the purchasers, and apply the money to the purpose of erecting buildings, purchasing books or philosophical apparatus, for the use of said academy, or in any other way that they may think most profitable to said academy; and the said academy shall be called and known by the name of the Woodford Academy.

This act shall be in force from its passage.

CHAPTER CXCIV.

*An ACT for adding part of the County of Madison to the County of Knox.*

Approved December 12, 1804.

Preamble.

WHEREAS it is represented to the present general assembly, that some of the good citizens of Madison county labor under great inconveniences in attending at their present seat of justice, owing to the distance and the badness of the road which they have to travel, and that it is much nearer and better way to Knox courthouse: for remedy whereof,

Boundaries.

Sec. 1. *Be it enacted by the general assembly,* That from and after the first day of April next, all that part of Madison county, aforesaid, comprised within the following bounds, shall be added to and considered as part of the county of Knox, to wit: Beginning on the line of the present counties, at a point due west of the mouth of Collins's fork of Goose creek; thence east to the mouth of said fork; thence a straight line to a point fifty poles south of the house of James Kencaid, Esq. thence a straight line (so as to leave said Kencaid in Madison county) to the nearest part of the ridge that divides the waters of Goose creek from those of the Red Bird fork; thence with the said ridge eastwardly to the line of Knox county; and with the same to the beginning.

Powers of the sheriff of Madison.

Sec. 2. *And be it further enacted,* That the sheriff of the said county of Madison may lawfully, after the first day of January next, distrain or collect all public dues and officers' fees from the inhabitants residing in the before mentioned boundary, which the said sheriff

XIII. YEAR OF THE COMMONWEALTH.

188

now is or may be before the said first day of April, bound by law to collect.

1804.

This act shall commence and be in force from and after its passage

CHAPTER CXCV.

*An ACT allowing the Clarke Circuit Court to sit ten juridical days.*

Approved December 12, 1804.

BE it enacted by the general assembly, That it shall and may be lawful for the Clarke circuit court to sit ten juridical days at each term, if the business before them require it.

This act shall be in force from its passage.

CHAPTER CXCVI.

*An ACT to legalize the proceedings of the County Court of Christian.*

Approved December 12, 1804.

WHEREAS the county court of Christian did, at their April term in the year 1804, by an order of said court, alter the name of the county town of the said county, which before had been called Elizabeth, and named the same town Hopkinsville; and whereas doubts have arisen whether the said court, having once given the name of Elizabeth to the said town, could afterwards change it: therefore,

Be it enacted, That the aforesaid order of the said county court shall be valid and legal, to all intents and purposes, and the said town heretofore known by the name of Elizabeth, shall hereafter be called and known by the name of Hopkinsville.

This act shall commence and be in force from and after the passage thereof.

CHAPTER CXCVII.

*An ACT for the removal of the Seat of Justice of Nicholas County.*

Approved December 12, 1804.

This act fixed the seat of justice on the plantation of James Ellis, about two miles from the Lower Blue Licks, on the main road from Paris to Lime-  
stone.

1804.

## CHAPTER CXCVIII.

*An ACT to amend the several acts establishing Circuit Courts.*

Approved December 13, 1804.

**Circuit courts established in certain counties** SECTION 1. *BE it enacted by the general assembly,* That circuit courts shall be, and the same are hereby established in the counties of Bracken, Pendleton, Boone, Gallatin, Nicholas, Floyd, Knox, Wayne, Henderson, Breckenridge, and Greenup; and each of said counties shall be a circuit.

**When to be held in** Sec. 2. *Be it further enacted,* That each of the said courts shall hold three terms in every year, agreeable to the rules and regulations heretofore prescribed by law, respecting circuit courts; and the terms of the circuit of Bracken shall commence on the first Monday in April, July, and November; for the circuit of Pendleton on the second Monday in March, May, and October; for the circuit of Boone on the first Monday in April, July, and October; for the circuit of Gallatin, on the fourth Monday in February, June, and September; for the circuit of Nicholas on the fourth Monday in March, June, and October; for the circuit of Floyd, on the third Monday in April, July, and October; for the circuit of Knox on the first Monday in April, July, and October; for the circuit of Wayne on the second Monday in April, July, and October; for the circuit of Henderson on the second Monday in April, July, and October; for the circuit of Breckenridge on the third Monday in April, July, and October; in the circuit for Greenup on the third Monday in April, July, and October: and the said courts, at each term, shall continue to sit six days, if the business before them require it.

**Assistant judges to be appointed.** Sec. 3. *Be it further enacted,* That there shall be two assistant judges appointed in each of the circuits aforesaid, who shall qualify into office, possess the same power, and receive the same compensation as other assistant judges in this commonwealth.

**Quarter session courts abolished** Sec. 4. *And be it further enacted,* That the quarter session courts, in the aforesaid counties, be, and the same are hereby abolished.

**Clerks to deliver the papers, &c.** Sec. 5. *Be it further enacted,* That the clerks of the quarter session courts shall, so soon as the circuit courts shall severally have appointed their clerks, deliver over



to the different clerks of the circuit courts all the papers, records, and things belonging to their respective offices, under the penalty of one thousand dollars.

1804.

Sec. 6. *Be it further enacted*, That the circuit courts established by this act, shall have jurisdiction in all criminal and civil cases, arising within their respective circuits, in the same manner as other circuit courts; and the several circuit courts established by this act, shall have full and complete jurisdiction over all causes now depending in the several quarter session courts abolished by this act; and all writs, recognizances, and process of every kind, which by law would be made returnable to the next quarter session court, shall be considered as returnable to the first circuit courts in the several circuits established by this act, and shall have the same legal efficacy as if this act had not been passed.

Jurisdiction of the courts established by this act.

Sec. 7. *Be it further enacted*, That one judge shall be commissioned, who shall be judge of the general and circuit courts, who shall possess the same jurisdiction, and shall receive the same salary as other judges of the circuit courts are now allowed.

Another judge added to the circuit courts.

Sec. 8. *Be it further enacted*, That the judges of the general court, when allotting themselves to the different circuits, which shall hereafter be done annually, and at the term of said court, shall so make their allotments, as that the same circuit judge shall not be allotted to two circuit courts, the terms of which shall interfere.

Allotment,

Sec. 9. *Be it further enacted*, That the several circuit courts now established, and hereafter established by law, shall have and possess jurisdiction over all causes which may have originated within the bounds now composing their several circuits, and which may have been depending in the court of appeals, at the time district courts were established in this commonwealth, and which yet remain undetermined; and the said causes and papers thereunto belonging, may be removed to the several circuit courts, in the same manner as such causes have hitherto been removed from the court of appeals to the different district courts.

Jurisdiction of circuit courts as to certain causes in the court of appeals.

Sec. 10. *And be it further enacted*, That the clerks of the circuit courts appointed under this act, shall enter into bond, be entitled to the same fees, possess the same

Clerks to give bond,

1804.  
 Clarke circuit  
 court terms  
 lengthened.

powers, and be subject to the same penalties as the clerks under the before recited acts.

Sec. 11. *And be it further enacted*, That the further time of four juridical days be added to the terms of holding circuit courts in the county of Clarke.

This act shall commence and be in force from its passage.

#### CHAPTER CXCIX.

*An ACT directing the mode of distributing the Criminal Code.*

Approved December 13, 1804.

WHEREAS it is represented to the general assembly, that the distribution of the criminal code to the respective persons entitled thereto, according to the usual method, will cost this state a considerable sum of money: for remedy whereof,

Sec. 1. *Be it enacted by the general assembly*, That the secretary of state shall distribute, when they shall be called or sent for, and not before, either to the members of the present assembly, or to the several persons entitled to the acts of assembly of this state, or to the clerks of the courts of the several counties, for such persons residing in their respective counties, the copies of the criminal law printed by an act of the last session of assembly.

Sec. 2. *And be it further enacted*, That such copies of the said criminal law as shall not be called or sent for by the persons respectively entitled to them, before the acts of the present session of assembly shall be printed, shall be transmitted with the said acts of assembly, to such of the persons as may not at that time have received them.

This act shall commence and be in force from the passage thereof.

#### CHAPTER CC.

*An ACT allowing an additional number of Justices of the Peace in certain Counties.*

Approved December 13, 1804.

*BE it enacted by the general assembly*, That three justices of the peace shall be allowed and appointed for the county of Lincoln, in addition to the present num-

ber now allowed by law to the said county; also two for the county of Madison; two for the county of Scott; one for the county of Nelson; one for the county of Shelby; one for Fleming; one for Ohio; three for Washington; one for Bullitt; one for Logan; two for Barren; two for Montgomery; one for Greenup; two for Floyd; two for Livingston; two for Fleming; two for Pulaski; one for Garrard; two to the county of Clark; and one for Mercer.

This act shall be in force from and after the first day of June next.

1804.

*one further  
County of  
Knox  
two for the  
County of  
Cherokee*

## CHAPTER CCI.

*An ACT giving an additional term to the Circuit Court of Fayette, and altering the terms of other Circuit Courts.*

Approved December 15, 1804.

SECTION 1. *BE it enacted by the general assembly,* That the Fayette circuit court shall hold an additional term in February next, to commence on the first Monday, and to continue twelve juridical days, if the business hereafter mentioned shall make it necessary. Additional term.

Sec. 2. *Be it further enacted,* That at the said additional term chancery causes only shall be tried, unless after they are gone through, the parties to any common law suit, shall consent to have it tried, in which case the court may proceed to the trial of such cause; and the said court may make any order that it may deem proper incidental to the commencement and progress of suits whether at common law or in chancery; and it shall be the duty of the clerk of the said circuit court to make out the chancery docket at least four weeks before the commencement of the additional term hereby established. What causes may be tried.

Sec. 3. *Be it enacted,* That the said court shall have the same power and jurisdiction over the before mentioned matters at the said February term, as the ordinary terms of said court; and the officers of the said court shall also attend it in like manner as it is their duty to do at the ordinary terms. Power and jurisdiction of the court.

Sec. 4. *Be it further enacted,* That there shall be allowed to the sheriff of Fayette two dollars per day during the time the said court shall sit, in February, to Sheriff's allowance.

1804.

be paid out of the county levy of Fayette, and to be laid at their next levy.

Times of hold-  
ing the Lincoln  
circuit court.

Garrard.

Mercer.

Pulaski.

Provisions as to  
process and re-  
cognizances.

Sec. 5. *And be it enacted*, That the Lincoln circuit court shall hereafter be holden on the second Monday in the months of February, May, and August, in each year, and shall sit eighteen juridical days at each term, if necessary; and the Garrard circuit court shall hereafter be holden on the third Monday in the months of March, June, and September in each year; and that the Mercer circuit court shall hereafter be holden on the fourth Monday in the months of March, June, and September, in each year; and that the Pulaski circuit court shall hereafter be holden on the fourth Monday in the months of April, July, and October, in each year. And all law process, bill, bonds and recognizances made, executed or entered into, and returnable to or conditioned for the appearance of any person or persons on any day of the next March term of the Lincoln circuit court, shall be returned to the same day of the next February term of the Lincoln circuit court; and those returnable on any day of the next February term of the Garrard circuit court shall be returnable on the same day of the next March term of said court; and those returnable on any day of the next February term of the Mercer circuit court, shall be returnable on the same day of the next March term of said court; and those returnable on any day of the next March term of the Pulaski circuit court, shall be returned to the same day of the next April term of said court; and such bail, bonds, and recognizances shall be void on the appearance of the person or persons therein named at the time directed by this act.

This act shall commence on the first day of January next.

## CHAPTER CCII.

### *An ACT for the relief of William Cissill.*

Approved December 15, 1804.

He had been a soldier in the Wabash expedition of 1786. This act allowed him compensation, he having never received any before.

XIII. YEAR OF THE COMMONWEALTH.

189

CHAPTER CCIIL.

1804.

*An ACT to amend the act prescribing the mode of changing the Venue.*

Approved December 15, 1804.

See Vol. II, Chap. 36.

*BE it enacted by the general assembly,* That when a suit shall be depending in any court in this commonwealth, the parties to said suit, by themselves, attornies, or agents, may, by consent, have an order made for the removal of said suit to any other court holding like pleas; and the court to which such removal shall be so ordered, shall thereupon hold all the jurisdiction over said suit, which the former court held, previous to the order of removal.

This act shall be in force from its passage.

CHAPTER CCIV.

*An ACT to provide for the expense incurred in certain suits on behalf of the Commonwealth.*

Approved December 15, 1804.

WHEREAS suits have in several instances been instituted by the attorney-general, and may hereafter be instituted against public defaulters, and no provision hath been made for defraying the expenses thereby incurred:

Sec. 1. *Be it enacted by the general assembly,* That when depositions are to be taken in any suit in behalf of the commonwealth against delinquent public collectors, their securities, or the purchasers of their property, the attorney-general shall give notice of the time and place of taking the same, to the state's attorney of the county in which they are to be taken, whose duty it shall be to attend and examine the witnesses, and who shall receive for every day he shall be so employed, the sum of two dollars; and the court before whom such suit may be depending, shall ascertain the amount of legal fees due to any officer, to witnesses for their attendance, to the justices of the peace for taking depositions, and to state's attornies for counties for attending to examine witnesses in such suit, and shall certify the same to the auditor of public accounts, who is hereby authorised to issue a warrant or warrants on the treasury for the a-

Preamble,

When depositions to be taken against public delinquents, &c.

Attorney-general to give notice.

Attorney for the county to take depositions. His compensation.

Court to ascertain amount of legal fees to different officers.

And certify to the auditor, who shall issue his warrant.

1804. *To be taxed in bill of cost, & how.* amount thereof, and such amount so paid (when the defendant or defendants shall be cast) shall be taxed in the bill of costs, and recovered in behalf of the commonwealth from such defendant or defendants.

*Penalty on witnesses for failing to attend.* Sec. 2. *Be it further enacted,* That when any witness shall fail to attend, when called on under this act, to perform the duties enjoined on him, he so offending shall forfeit and pay the sum of fifty dollars for every such offence, without reasonable excuse, to be adjudged of by the circuit court of the circuit in which he or they

*How recoverable.* may reside, recoverable by motion of the commonwealth's attorney for said circuit, ten days previous notice in writing being given thereof. *Provided, however,* that nothing herein contained shall be construed so as to allow clerks and sheriffs fees, when they would not have been entitled thereto previous to the passage of this act, or to entitle them to draw any money out of the public treasury for services rendered under this act, over and above the sums heretofore allowed them for *ex officio* services.

*Court to certify amount of judgment, &c. to auditor.* Sec. 3. *Be it further enacted,* That the court before whom any judgment may be obtained in behalf of this commonwealth, shall certify the amount thereof, together with the costs, to the auditor of public accounts; and all monies recovered in behalf of the commonwealth by the attorney-general, shall be paid by the sheriff or coroner collecting the same, into the treasurer's office, who shall obtain the auditor's *quietus* therefor, as is provided in case of settling and paying the public revenue.

*To commence.* This act shall commence and be in force from and after the passage thereof.

## CHAPTER CCV.

*An ACT for the relief of the widow and heirs of Thomas Neele, deceased.*

Approved December 15, 1804.

This act gave them credit until the children should arrive at age, for the state price for 200 acres of land, in Logan county, in consideration of extreme poverty.

### XIII. YEAR OF THE COMMONWEALTH.

191

#### CHAPTER CCVI.

1804.

*An ACT for the relief of Cassandra Deye Van Pradelles,  
and her children.*

Approved December 15, 1804.

This act gave her the privilege of a *feme sole*, so far as to enable her to trade, contract and acquire, and possess all property, personal and real, without the control of her husband, and provided that the same should not be liable for any debts which he had or might contract.

#### CHAPTER CCVII.

*An ACT for the relief of Deacon Payne.*

Approved December 15, 1804.

He had been thrown into the furnace at Robertson's salt-works, and so injured thereby, as to be unable to do any kind of labor. In consideration of which, this act remitted the state price on 200 acres of land, which had been assigned to him by John Davis.

#### CHAPTER CCVIII.

*An ACT for the relief of John Gray.*

Approved December 15, 1804.

He was entitled to 350 acres of seminary land, which, by mistake, had been surveyed partly on a military claim. This act authorized the locating of that part on any other unappropriated land.

#### CHAPTER CCIX.

*An ACT concerning the Public Spring in the Town of Versailles.*

Approved December 15, 1804.

This act authorized John O'Bannon to take the water from the public spring in Versailles, for the purpose of erecting a water grist-mill within the town. The mill to be finished in 18 months.

#### CHAPTER CCX.

*An ACT for the redemption of certain Certificates therein mentioned.*

Approved December 15, 1804.

These certificates were for military services rendered by several persons, in expeditions undertaken for the defence of Kentucky, some years before the separation from Virginia.

1804.

## CHAPTER CCXI.

*An ACT to amend an act entitled "an act to amend an act entitled an act to amend and reduce into one the several acts establishing a Permanent Revenue."*

Approved December 15, 1804.

*Vide* Vol. I, Chap. 10, and the Notes.

WHEREAS many persons, from ignorance and misfortune, by failing to list their lands with the commissioner of the tax, or auditor, agreeably to the provisions of the said recited act, have subjected them to forfeiture to the commonwealth, whereby they are much injured, and the state not at all benefited :

*Be it therefore enacted*, That any owner of land forfeited to this commonwealth by any law whatever, for not being listed for taxation, or any other person on his behalf, may, within two years from the passage of this act, list the same, in the case of a resident, with the commissioner of the tax, and in the case of a non-resident, with the auditor ; and upon paying up all arrearages of tax that may be due upon the said land, such owner shall be re-vested with the title thereto, in the same manner as if the said recited act had never passed, and as if no forfeiture had accrued.

This act shall commence and be in force from and after the passage thereof.

## CHAPTER CCXII.

*An ACT to authorise the Printers of the Republican Register and the Mirror to publish Advertisements.*

Approved December 15, 1804.

The Republican Register was printed in Shelbyville, the Mirror in Danville. This act authorised them to print all advertisements and other notifications required to be published by any law in force in this state.

## CHAPTER CCXIII.

*An ACT to legalise the proceedings of the County Court of Floyd.*

Approved December 15, 1804.

The proceeding legalised was the establishment of the town of Prestonsburgh, which had been done without advertisement with all the forms of law.



## CHAPTER CCXIV.

1804.

*An ACT for the benefit of William Rodgers.*

Approved December 15, 1804.

He had been compelled to pay costs to the amount of 3/1 8s 10d in prosecuting a demand in behalf of the commonwealth against Peter Stidjer. This act directed the auditor to issue a warrant for it.

## CHAPTER CCXV.

*An ACT for the relief of Clarinda Allington.*

Approved December 15, 1804.

She had been taken captive by the Indians, and compelled by a Cherokee chief to become his wife, and had three children by him. She had lately escaped and come with her children into Kentucky, entirely unprovided with any means of support. This act gave her an annuity for three years: sixty dollars for the first, 50 dollars for the second, and 40 dollars for the third year, and appointed commissioners to receive and apply it.

## CHAPTER CCXVI.

*An ACT to amend the several acts concerning the Navigation of the South and Stoner's Forks of Licking.*

Approved December 15, 1804.

WHEREAS the acts of assembly heretofore made for removing and preventing the obstructions in the navigation of the South and Stoner's forks of Licking, have been found inadequate to effect that salutary object: for remedy whereof,

Sec. 1. *Be it enacted by the general assembly, That* James Kenny, Henry Clay, jun. Jacob Spears, and Joseph L. Stephens, in the county of Bourbon; and Thomas Holt, John Wall, and John Smith, in the county of Harrison, be and they are hereby appointed commissioners, who shall, or a majority of them, meet on the first Monday in May next, or so soon thereafter as may be, and examine the said South and Stoner's forks, and ascertain what are the natural obstructions thereof: and it shall be the duty of said commissioners to estimate the probable expenses that would attend the removal of said natural obstructions, and make a report thereof to the county courts of Bourbon and Harrison (before they lay their next county levy), as well the nature and difficulty of said obstructions, as their estimate aforesaid; and the said commissioners are empowered and directed to open subscriptions in their respective coun-

Preamble,

Commissioners appointed.

When to meet.

Their duty.

To make a report.

Commissioners to open subscriptions, and for what.

1804. ties, payable to themselves, for the purpose of raising a fund for the removal of said natural obstructions ; and the said commissioners are also empowered and directed to meet at any time or times and places (which may be appointed and agreed on by a majority of them) to receive proposals from and make a contract with any person or number of persons who may be willing to undertake the clearing out and removing the said obstructions from said stream : *Provided*, the sum they may contract to give shall not exceed the sum of 500 dollars more than the amount of said fund raised by subscription as aforesaid : *Provided, however*, the time or times of such meeting of the commissioners shall be advertised at the court-house door in each county, some court day, at least ten days previous to said meeting.

Empowered to meet and make contracts for removing obstructions. And to what amount. Meetings to be advertised.

Sec. 2. *Be it further enacted*, That it shall be the duty of the said commissioners to report to the said county courts (of Bourbon and Harrison) the amount that may be subscribed for the purpose aforesaid, and also the sum that the undertaker or undertakers will remove and clear out the said obstructions for ; and if it shall be found that the said sum raised by subscription as aforesaid, shall be insufficient to discharge the contract made by the commissioners with the undertaker or undertakers aforesaid, the said county courts of Bourbon and Harrison, are hereby authorised to lay upon their respective counties (at the laying of their next county levy) any sum not exceeding 500 dollars, in proportion to the number of titheables in each, to be collected and accounted for as other county levies are, and to be applied to and for the use of said undertaker.

To report the amount of subscriptions. Add the sum contracted for.

Balance may be levied.

Sec. 3. *Be it further enacted*, That the undertaker or undertakers who may contract as aforesaid, shall, previously to their proceeding in the said undertaking, give a bond to the said commissioners, with three or more sureties, in the penalty of three thousand dollars, to comply with the contract which the said commissioners may make ; upon which, in case of non-compliance with the conditions thereof, suit may be commenced thereon, in the name of the commissioners, and judgment recovered (in the circuit court of Bourbon or Harrison) for the amount of such damages as may be sustained, which shall be applied by the commissioners for and to the use of clearing out and removing the said obstructions from the said stream.

Undertakers to give bond and security. The penalty thereof. And suit may be brought thereon, for a breach thereof. Damages, how to be applied.

Sec. 4. *Be it further enacted*, That the subscriptions which may be obtained for the purpose aforesaid, shall be assigned by the said commissioners to the undertaker or undertakers, by whom, and in whose name, the sum subscribed may be recovered from the said subscribers, before any court or justice of the peace having competent jurisdiction of sums of like dignity : *Provided, however*, that nothing in this act contained, shall be so construed, as to abridge or enlarge the duties of the owners of mills, already built, or to be built hereafter, on said stream.

1804.

Commissioners may assign the subscriptions to the undertaker. Who may sue for and recover the same. *Provided* as to the owners of mills.

Sec. 5. *Be it further enacted*, That the penalty prescribed against the owners of mills, by the third section of the act entitled "an act to amend the several acts concerning the navigation of the South and Stoner's forks of Licking," approved December 16th, 1802, shall be to the use of said commissioners, to be applied by them to the purpose of clearing out and removing said obstructions, provided for in this act ; and that they may, and in their names, sue for the same in any circuit court within the jurisdiction of which the owner of said mills neglecting or refusing to comply with the provisions of said recited act, may reside.

Penalties arising under former acts, appropriated.

How to be recovered.

Sec. 6. *Be it further enacted*, That the county courts of Bourbon and Harrison, at the laying of their next county levy, may lay upon their respective counties, one dollar per day, for each commissioner appointed by this act, for every day they shall be employed in viewing the said stream, or in receiving proposals and making a contract agreeable to the provisions of this act.

Allowance to the commissioners, & how to be paid.

This act shall commence and be in force from its passage To commence.

## CHAPTER CCXVII.

*An ACT concerning Settlement Rights south of Green River.*

Approved December 15, 1804.

*Vide* Vol. I, Chap. 220, and the prelection.

WHEREAS it is represented to the present general assembly, that many disputes are likely to arise by the county courts south of Green river continuing to grant certificates for land already granted : for remedy whereof,

Preamble.

1804.

County courts  
restricted in  
granting settle-  
ment claims.

Sec. 1. *Be it enacted by the general assembly, That* no claim shall hereafter be allowed by the county courts aforesaid, which may in any respect whatever interfere with any prior claim heretofore granted; and all such claims, or any part thereof, interfering with any claim heretofore allowed, such latter claim, or the part thereof interfering with any prior claim, shall be considered absolutely null and void.

Claims granted  
on military or  
appropriated  
land, how they  
may be remo-  
ved.

Sec. 2. *Be it further enacted, That* where any claim heretofore granted or hereafter granted, may have been, or shall hereafter be, or any part thereof, entered on any military or appropriated land, on satisfactory proof being made, the county courts shall permit such claims so entered, or such part as shall be entered on any military or appropriated land, to be withdrawn and located on any unappropriated land. *Provided, however,* that nothing in this act shall be so construed as to authorise any person to relinquish any claim granted under any of the former laws and locate the same under the law by which the price of land is reduced to twenty dollars per hundred acres. But wherever a claim shall hereafter be removed under this act, the same price shall be chargeable thereon that was chargeable on the original claim proposed to be removed.

Plats and cer-  
tificates made  
assignable.

Sec. 3. *And be it further enacted, That* any certificate of land heretofore obtained, or which may be hereafter obtained by any person, and plat and certificate of survey made on such certificate, shall be transferable, and that a patent shall issue in the name of the assignee, any law to the contrary notwithstanding.

This act shall commence and be in force from and after the passage thereof.

## CHAPTER CCXVIII.

### *An ACT concerning the marriage of John Tadlock.*

Approved December 15, 1804.

This act authorised him to sue in the Mercer circuit court, for a divorce from his wife, Ann Tadlock, and to obtain it on a jury's finding that she had deserted him, and refused to return and perform the duties of a wife, and that she had assigned as a reason for so doing, that her former husband, James Harrod, was living at the time of her marriage with Tadlock.

## CHAPTER CCXIX.

1804.

*An ACT to amend an act entitled "an act concerning Georgetown."*

Approved December 15, 1804.

WHEREAS it is represented to the present general assembly, that the inhabitants of Georgetown, in the county of Scott, elected their trustees on the 10th day of March last, instead of the first Saturday in February, as was directed by an act passed at the last session of the general assembly, owing to their not being acquainted with the time that the election should have taken place, until the time was passed : therefore,

Sec. 1. *Be it enacted by the general assembly,* That the said election of trustees, and the proceedings of the trustees so elected, shall be as valid; to all intents and purposes, as if the election had taken place on the first Saturday in February; and the authority of all former trustees of said town, is hereby declared to be void and of no effect.

And whereas it is represented to the present general assembly, that since the said town was first established, a number of in-lots have been laid off adjoining the same, and entered on the plat of the town, without being established by law : therefore,

Sec. 2. *Be it further enacted,* That all lots that have been laid off and entered on the plat of the town, are hereby established as part of the town, in the same manner as the original lots are.

Sec. 3. *And be it further enacted,* That it shall be lawful for the trustees of Georgetown to appropriate so much of the rents arising from the lower story of the court-house of the county of Scott, as shall be necessary for sinking, walling up and completing a well, to be sunk on such part of the public ground in Georgetown as shall be agreed on by the said trustees and the county court of Scott; which well shall be for the use of the public.

Sec. 4. *And be it further enacted,* That the inhabitants of Georgetown shall not be compelled to work on any public road without the limits of the said town.

Sec. 5. *And be it further enacted,* That in all future elections of trustees, it shall be lawful for all free white male citizens, above twenty-one years of age, living in the county of Scott, and holding real property in said

Preamble.

Election &amp;c. of the trustees declared valid.

Recital.

Certain lots declared to be a part of the town.

Trustees empowered to appropriate the rent of the lower story of the court-house to the digging &amp;c. of a well on the public ground.

Inhabitants not to work on the roads without the line of the town.

Qualification of voters for trustees.

1804.

}

What property  
may be taxed.Limitation of  
the tax,Repealing  
clause,

To commence.

town, to have the right of voting ; but no person who is, at the time of voting, an inhabitant of said town, shall be entitled to a vote, unless he holds real property therein, or has been an inhabitant thereof for at least six months.

Sec. 6. *And be it further enacted,* That the trustees of said town, in levying a tax for the benefit thereof, shall not be at liberty to tax any property but such as shall at the same time be taxed for the benefit of the state government, except that they shall be at liberty to tax the improvements on town lots : *and provided,* the said tax shall not exceed the sum of 200 dollars annually.

So much of every act or acts as is inconsistent with the provisions of this act, is hereby repealed.

This act shall commence and be in force from and after the passage thereof.

---

### CHAPTER CCXX.

#### *An ACT altering the line between Green and Hardin Counties.*

Approved December 15, 1804.

Preamble.

WHEREAS it is represented to the present general assembly, that the line between Green and Hardin counties has never been run until very lately, and that many who have heretofore been considered as inhabitants of Green county, have attended the courts, voted at the elections, listed their property, and paid taxes in the said county of Green, are, by the late extension of the line between the said counties, left in the county of Hardin : and it is also represented, that those inhabitants, as well as others, are much more convenient to the courthouse of Green county, than they are to Hardin courthouse, and have petitioned to be added to Green county ; by reason of which it is thought expedient to alter the said line : wherefore,

Boundaries al-  
tered and fixed.

Sec. 1. *Be it enacted by the general assembly,* That that part of Hardin county included between the present line dividing Green and Hardin, and the following bounds, to wit : beginning at the mouth of little Barren river, running thence down Green river to a point on Green river two miles above the mouth of Linn Camp creek, from thence running on the dividing ridge between Linn Camp creek and Brush creek, so far as will include all the settlers of Brush creek, thence such a

course as will strike the south-west corner of Washington county, at the head of Salt Lick creek, shall be, and the same is hereby added to the county of Green.

1804.

Sec. 2. *And be it further enacted*, That the sheriff of Hardin county shall have full power to distrain for all taxes, levies, and fee-bills, and finish and complete all the demands he may legally have against the individuals included within said bounds, in the same manner as if this act had not been passed, any law to the contrary notwithstanding.

Sheriff of Hardin may collect all arrearages.

Sec. 3. *And be it further enacted*, That the said line shall be run by the surveyor of Green county, and at the expense of said county; and before the said surveyor shall proceed to run the said line, ten days notice shall be given to the county court of Hardin county, in order to enable the said court to appoint a surveyor or other person to attend the running the said line, and the surveyor or other person or persons employed on the part of Hardin county, shall be paid at the expense of the said county of Hardin.

By whom, and at whose expense the line shall be run.

This act shall commence and be in force from and after the passage thereof.

To commence.

### CHAPTER CCXXI.

#### *An ACT concerning the Navigation of the Rolling Fork of Salt River.*

Approved December 15, 1804.

SECTION 1. *BE it enacted by the general assembly*, That it shall and may be lawful for the inhabitants of the counties of Washington, Nelson, Hardin and Bullitt, to remove all obstructions of every kind that may injure or impede the navigation of the Rolling fork, from Thomas Doran's mill to the mouth of said stream, which inhabitants, or any part of them, from any of the said counties, (if force should be offered) may call on the sheriff of the county where any such obstruction or obstructions may exist, who shall attend with the power of the county, for the purpose of suppressing the same.

How obstructions may be removed.

Sec. 2. *And be it further enacted*, That any person or persons in said counties, by giving bond and sufficient security in the county court clerk's office, for his or their faithful applying all the money or property he or they may collect for that purpose, to the use of clearing away

Who may receive for clearing out the navigation.

9-64

1804.

such obstructions as may injure or impede the navigation of said stream, shall, and they are hereby authorised and empowered to raise by subscription or subscriptions and to recover by law, from any subscriber, any sum of money or property which may be subscribed for that purpose.

To commence. This act shall be in force from and after the passage thereof.

~~~~~  
CHAPTER CCXXII.

*An ACT altering the terms of certain Circuit Courts in this Commonwealth.*

Approved December 18, 1804.

Terms of hold-  
ing courts in  
Henderson,

Ohio,

Breckenridge,

Hardin,

Muhlenberg,

Warren,

Wayne,

Woodford,

Greenup,

Washington,

Nelson,

SECTION 1. *BE it enacted by the general assembly,* That the circuit court for the county of Henderson shall be held on the first Monday in April, July and October in every year, and may sit six judicial days; the circuit court of Ohio shall be held on the second Monday in April, July and October in every year, and may sit six judicial days; the circuit court of Breckenridge shall be held on the third Monday in April, July and October in every year, and may sit six judicial days; the circuit court of Hardin shall be held on the fourth Monday in April, July and October in every year, and may sit six judicial days; the circuit court of Muhlenberg shall be held on the fourth Monday in March, June and September in every year, and may sit six judicial days; the circuit court of Warren shall be held on the first Monday in February, May and October in every year, and may sit six judicial days; the circuit court of Wayne shall be held on the second Monday in April, July and October in every year, and may sit six judicial days; the circuit court of Woodford shall be held, after the first day of April next, on the first Monday in February, June and September in every year, and may sit six judicial days; the circuit court for the county of Greenup shall be held on the first Monday in May, August and December in every year, and may sit six judicial days, if the business before them require it; the Washington circuit court shall be held on the first Monday in March, the second Monday in June, and the first Monday in October in every year, and may sit six judicial days; the Nelson circuit court shall be holden on the



second Monday in March, the third Monday in June, and the second Monday in October in every year, and may sit eighteen judicial days; the Bullitt circuit court shall be held on the second Monday in February, May and September in every year, and may sit six judicial days; that the Jefferson circuit court shall be held on the last Monday in January, the first Monday in June, and the last Monday in August in every year, and at each term the said court may sit twelve days, except the June term, which is hereby limited to six days.

1804.

Bullitt.

Jefferson.

Sec. 2. *Be it further enacted*, That all recognizances and process which by law would be returnable to the present terms of said courts shall be considered and legally returnable to the terms as established by this act.

Provision as to process, &amp;c.

Sec. 3. *And be it further enacted*, That the county courts shall be holden on the same Mondays of every month in which circuit courts are directed by this act to be held, except those months in which circuit courts are held.

County courts when to be held.

Sec. 4. *Be it further enacted*, That all and every act or acts authorising the circuit courts aforesaid to sit on different days, shall be, and the same are hereby repealed.

Repealing clause.

This act shall be in force from its passage:

### CHAPTER CCXXIII.

*An ACT for opening a Road from Georgetown to Augusta.*

Approved December 18, 1804.

WHEREAS it is represented to the general assembly, that the public would be benefited by opening a road from Georgetown to Augusta, in Bracken county:

Preamble.

*BE it enacted by the general assembly*, That William Henry and Richard M. Gano, of Scott county, Samuel M'Million, James Caldwell and James Coleman, of Harrison county, and William Woodward and Philip Buckner, of Bracken county, be appointed commissioners, and are hereby vested with full power to cause a waggon road to be opened from Georgetown, through Scott county, Harrison county, and Bracken county, to Augusta, having due regard to the highest and best way; and should any person, through whose waste land the said road should be viewed, object to the

Commissioners appointed, and their duty.

1804. opening of the same, the sheriff of the county in which the land may be, shall, at the direction of said commissioners, summon a jury to meet upon the land on a certain day in the commissioners' order mentioned, who shall be qualified to ascertain the damages that may arise by the opening said road; and the road shall not be opened until such damages shall be paid by the commissioners.

Jury to assess damages:

And in order to raise a fund for the paying such damages, and opening said road, the said commissioners, or a majority of them, are hereby authorised to open subscriptions to pay said damages, and to aid the opening said road, and may recover the same by motion made before a magistrate, or in any court having cognizance of the same, upon their giving ten days previous notice in writing to the delinquent subscriber; which subscriptions shall be applied to the purposes aforesaid.

Commissioners to open subscriptions, and how recoverable.

To commence. This act shall be in force from its passage.

#### CHAPTER CCXXIV.

*An ACT to amend an act entitled "an act allowing County Court Clerks a compensation for their services on Criminal Prosecutions."*

Approved December 18, 1804.

Preamble.

WHEREAS the law passed December the 17th, 1803, entitled "an act allowing the clerks of the county courts a compensation for their services on criminal prosecutions, is doubtful, and has been misconstrued: for remedy whereof,

Compensation to clerks for criminal prosecutions.

Sec. 1. *Be it enacted by the general assembly,* That the clerks of the county courts of this commonwealth shall receive four dollars for attending each called court for the examination of criminals, including all the duties enjoined on him by law, for such services, or in any wise appertaining thereto, and no more; and he is hereby precluded from drawing upon the treasury for any services rendered on account of the prosecution of criminals, excepting the aforesaid four dollars for attending each called court, issuing subpoenas, and taking the depositions, any law to the contrary notwithstanding.

Circuit court clerks to draw on treasury as usual,

Sec. 2. *And be it further enacted,* That the clerk of each circuit court shall draw from the treasury as heretofore by law directed, but shall not be entitled to any

### XIII. YEAR OF THE COMMONWEALTH.

203

claim against the county, to be laid in the county levy, 1804.  
any law to the contrary notwithstanding.

This act shall commence and be in force from and <sup>To commence.</sup>  
after the passage thereof.

#### CHAPTER CCXXV.

*An ACT for the relief of the heirs of Robert Elliott,  
deceased.*

Approved December 18, 1804.

Their ancestor had died intestate, leaving 150 acres of land, in Woodford,  
which could not be conveniently divided among them. This act directed a  
sale, and appointed commissioners to make it.

#### CHAPTER CCXXVI.

*An ACT to amend the act entitled "an act for opening  
a Road from Greensburg to the Tennessee State Line,  
and for other purposes.*

Approved December 18, 1804.

This act merely substitutes Richard Berry as a commissioner in the room of  
Matthew Walton, who could not attend.

#### CHAPTER CCXXVII.

*An ACT for the benefit of the Clergy.*

Approved December 18, 1804.

They were exempted from serving on juries in 1806.—See Chap. 397, of  
this Volume.

*BE it enacted by the general assembly,* That it shall  
and may be lawful that any minister who is duly quali-  
fied to preach the gospel, may solemnize the rites of ma-  
trimony, in any part of this state, having obtained li-  
cense from any county court in this commonwealth ;  
and moreover such minister shall be exempted from  
working on all highways.

This act shall be in force from its passage.

#### CHAPTER CCXXVIII.

*An ACT providing for the reimbursment by the United  
States of the Claims for Military Services rendered by  
the Citizens of this State.*

Approved December 18, 1804.

*BE it enacted by the general assembly,* That the go-  
vernor shall cause the necessary enquiries to be made in

1804.

the offices of the secretary of state, of the auditor of public accounts, and of the treasury, of all the claims (accompanied with their necessary vouchers) for military services against the Indians, in and out of the limits of this state, since the year 1785, until the year 1789, according to our compact with the state of Virginia, and since the year 1789, until the end of the month of October last, and on the report of the governor of such claims to the next session of the general assembly, who will have it in consideration, and will take the proper measures to obtain the reimbursement from the treasury of the United States of all such claims for military services which have been performed by the citizens of this state on account of the United States; including in such demand all the claims for the said military services granted or which may be granted in the course of the present session, as just and reasonable by the general assembly, and those also that the committee of claims may recommend as grounded upon documents and satisfactory evidences.

## CHAPTER CCXXIX.

*An ACT for viewing a way for a Road from Danville to South West Point and Tellico, in Tennessee.*

Approved December 18, 1804.

Preamble.

WHEREAS it is represented to the general assembly, that by stipulations entered into between the president of the United States and the Cherokee nation of Indians, permission is obtained to open a road through the territory of the said Indians, from Tellico and South West Point, in the state of Tennessee, to the county of Jackson in the state of Georgia, and that measures will be taken immediately for obtaining the consent of the said Indians for opening a road from this state through their territory, to communicate with one of the aforesaid places, and if impracticable to make a road to communicate as above, in that case to look for a way to cross the Tennessee river lower down than the mouth of Clinch; and as it is the interest of this state to avail herself of an intercourse so advantageous and useful to her citizens: therefore,

Sec. 1. *Be it enacted by the general assembly, That*  
Commissioners. William Whitley, Jonathan Forbes, and Joseph Evans,

be and they are hereby appointed commissioners to view the best and nearest way from Danville to Tellico and South West Point, in the state of Tennessee, and if it shall be impracticable to make a road to communicate with one of the said two places, in that case the commissioners shall look for a way to cross the Tennessee river lower down than the mouth of Clinch; and they shall make report, as soon as may be, to the governor of this state, to which of the said two places a road can be most practically and conveniently made, and the probable distance to each; stating therein the most notorious objects upon the way they shall mark, and the several material variations in its course; and if it is impracticable to make a road to either of the places aforesaid, they shall then view and report whether it is practicable to make one to a different place, and what place, as small a distance lower down on said river as is practicable. And for the purpose of ascertaining the situation and distance of the way which the commissioners may mark out, they may employ two persons as chain-carriers, at such time and place as they may be ready to lay down and measure the way marked out or to be marked out by them, upon the best terms they can be had. And it shall be the duty of the governor to transmit to the secretary of war, as soon as he shall receive the commissioner's report, a copy thereof.

1804.  
Their duty.

May employ  
chain carriers.

Governor's du-  
ty.

Sec. 2. The commissioners, before they proceed to act as aforesaid, shall make oath before a justice of the peace, that they will, to the best of their knowledge, and the information they can obtain, view and mark out the nearest and most eligible way to the places, or one of them aforesaid, for a public road; and that they will make a true report thereof, to the best of their knowledge, as soon as may be, to the governor.

Commissioners  
to make oath.

Sec. 3. In case either of the commissioners should die or refuse to act, &c. the governor shall immediately, on being informed thereof, appoint a person to fill the vacancy, who shall be governed in the same manner for the government of those herein mentioned.

Governor to fill  
vacancy.

Sec. 4. *And be it further enacted,* That each of the commissioners shall, for their services, be entitled to two dollars per day, during the time they are actually engaged in viewing and marking out a way for a road, as aforesaid; and shall also be entitled to what they shall

Commissioners'  
compensation.

1804.

How paid.

advance to chain-carriers; and they shall make oath in some county court in this commonwealth, of the number of days they shall have been really engaged in viewing the said way for a road, and in going to and returning from the same; and also of the sum of money expended in employing chain-carriers as aforesaid. And it shall be the duty of the clerk of the said court to certify the same to the auditor of public accounts, who shall issue warrants accordingly on the public treasury. This act shall be in force from its passage.

## CHAPTER CCXXX.

*An ACT concerning certain Academies.*

Approved December 18, 1804.

Preamble.

WHEREAS the several counties in this commonwealth, have had six thousand acres of land granted to them, as a donation for the encouragement of learning, by an act of assembly, passed the 22d of December, 1798, entitled "an act to establish and endow certain academies," and it being thought expedient to authorise the trustees of the several academies to dispose of a part of said land, to carry the same into complete effect:

Trustees authorized to sell part of their donation lands, and for what purpose.

SEC. 1. *Be it therefore enacted by the general assembly,* That it shall and may be lawful for the trustees of each of the academies in the several counties of this commonwealth, to sell half of the land they may have secured, for the purpose of enabling them to pay for erecting a house, and purchasing a library and philosophical apparatus, for the use and benefit of their respective academies.

Trustees appointed for the Logan academy.

Sec. 2. *And be it further enacted,* That William Wallace, Ninian Edwards, Reazin Davidge, Walter Jones, Reuben Ewing, Moses Steele, William Reading, John Porter, James M'Mahan, Maxwell Sharp, Robert Ewing, Samuel Caldwell, and William S. Dallum, are hereby appointed trustees for the Logan academy, and vested with the same powers that other trustees are.

Recital.

*about*

And whereas it is represented to the present general assembly, that the trustees of the Jefferson academy have neglected to act for two years, and thereby vacated their appointments:

### XIII. YEAR OF THE COMMONWEALTH.

207

Sec. 3. *Be it enacted*, That Alexander S. Bullitt, Richard C. Anderson, Robert Breckenridge, Abraham Hite, Henry Churchill, Abner Fields, Gabriel J. Johnson, Samuel Oldham, John Bates, Thomas Barbour, Jonathan Taylor, and David L. Ward, shall be, and the same are hereby appointed trustees for the said academy; and they, or a majority of them, are hereby invested with all the powers and privileges, in as full and ample a manner, as if no such vacancy had happened.

1804.

Trustees for  
the Jefferson  
academy.

Sec. 4. And the trustees of the Salem academy shall have power and authority to carry into effect any contract they may have heretofore made, for the locating and surveying the lands granted by law to the said academy; and shall also be at liberty to sell one half of the remainder of their lands, for the purpose of erecting a house, purchasing a library and philosophical apparatus.

Trustees of the  
Salem academy  
vested with cer-  
tain powers.

This act shall be in force from its passage.

#### CHAPTER CCXXXI.

*An ACT to repeal in part the act entitled "an act for the relief of Joshua Jones."*

Approved December 18, 1804.

*Vide Vol. II, Chap. 330.*

The present act gave him five years longer to pay the state price for his land, to be paid in five annual instalments.

#### CHAPTER CCXXXII.

*An ACT providing for having the Streets in Lexington Paved.*

Approved December 18, 1804.

SECTION 1. *BE it enacted by the general assembly*, That the trustees of the town of Lexington, shall be, and they are hereby authorised and empowered, under such rules and regulations as they may adopt, to compel the owners of lots on Main-street, in the said town, between Main cross-street and Limestone or Mulberry street, to pave as far as the middle of the street before their respective lots; and the said trustees are authorised and empowered, in case of failure on the part of the owners, or any of them, of the said lots, to have the pavements aforesaid made, to have it done, and to assess

Certain streets  
to be paved, &c  
by whom.

1804. the expense arising therefrom, upon the owners so failing, which may be collected by sale of their lots, or otherwise, as the trustees may determine.

When other streets may be paved. Sec. 2. *Be it further enacted*, That whenever the owners of four-fifths of the ground on any street, shall petition the said trustees to have such street paved; they shall be, and are hereby authorised and empowered to compel the pavement of the same, in the manner before provided.

Streets adjoining the public square, the expense of paving to be levied by the court. Sec. 3. *Be it further enacted*, That the county court of Fayette shall be, and they are hereby empowered to lay at any term of the said court, a levy sufficient to pave one half of the streets, or either of them, surrounding the public square.

This act shall commence and be in force from its passage.

#### CHAPTER CCXXXIII.

*An ACT authorising the County Courts of Wayne and Jefferson to lay their County Levies.*

Approved December 18, 1804.

They had failed to lay the county levy in the time prescribed by law. This act authorised it to be done in January or February ensuing.

#### CHAPTER CCXXXIV.

*An ACT for the incorporation of the Lancaster Library Company.*

Approved December 18, 1804.

Section 1. *BE it enacted by the general assembly*, That John Boyle, jun. Peter Bembridge, Benjamin Letcher, Samuel M<sup>r</sup> Kee, William Owsley, jun. William M. Bledsoe, Abner Baker, Stephen Perkins, John Bryant, Achilles Ballinger, John Yantes, Isaac Alderson, William Buford, Alexander Wright, and the rest of the shareholders who have subscribed, or who may hereafter subscribe to the Lancaster library, shall be a body politic and incorporate, by the name and style of the Lancaster Library Company, and by that name have full power to sue and be sued, implead and be impleaded, and to have and make use of a common seal. The shareholders of the Lancaster library, or a majority thereof, shall meet at the court-house in the town of

Company incorporated.

First meeting.



### XIII. YEAR OF THE COMMONWEALTH.

209

Lancaster, on the first Saturday in January 1805, or at any other time, and may adjourn from time to time, and from place to place, as to them may seem proper. The shareholders, at their first meeting, and on the first Saturday in every year afterwards, shall elect five persons of their own body as directors for said company, who shall continue in office one year, and shall take an oath or affirmation faithfully and impartially to discharge all the duties of their office; but in case the said shareholders should at any of the said periods fail to elect their directors, those last elected shall continue in office until an election shall take place, and shall on the same day elect a librarian, who shall let out and receive in books, and do such other things as the said directors in their regulations may think proper to make, relative to the said office. And the said directors shall have power to appoint their own chairman and secretary; and the secretary so appointed shall keep a fair record of all orders, resolutions and proceedings of said corporation, which shall be received as evidence both for and against the said corporation, in any matter of controversy wherein the said corporation may be concerned; and the said secretary shall, before he enters into the duties of his office, take an oath or affirmation faithfully and impartially to discharge all the duties of his said office, to the best of his abilities. And the said directors shall at all times have, hold, possess, and exercise all the authority vested in them by this act, or articles of association, so long as they continue in office, and shall have power to fill all vacancies which may happen in their own body, and to call general meetings of the shareholders by public advertisement, whenever they may deem it necessary, and shall also have power to form rules and regulations for the government of said library company, which rules, before they are adopted, shall be sanctioned by a majority of the shareholders, and shall have power to make and contract for the use of the said corporation, so as not to exceed their funds; and the said directors may sue or be sued, and shall have full power to recover all and any sums of money, &c. now due by any shareholder, under the articles of subscription to the said library, or which may hereafter become due to the said corporation, in the same manner as debts of the like amount are by law recoverable. Three of the di-

1804.

Regulations as to elections.

*E. Shatt*

Power of the directors,

1804.

Number of  
shares.

rectors of the said library company shall be a quorum to proceed to business, and a majority of whom shall determine any question.

There shall not be more than one hundred and fifty shares in the said corporation, any of which shares may be transferable; and all estates, rights, properties, privileges, debts and funds of every kind, belonging to the said library association, shall be vested in, and belong to the said incorporation.

Subscriptions  
how to be ap-  
plied.

There shall be no forfeiture to a greater amount than the share or shares of the delinquents; and there shall not be a greater number of shareholders than one hundred and fifty, and the amount of each share subscribed shall be ten dollars, and no more, to be applied solely to the purpose of purchasing a library, with philosophical apparatus, and keeping the same in complete repair, and for the procuring of a house and the payment of their officers, if the directors should judge it necessary, and to no other purpose whatever; and if the said directors shall make any contract or exceed their powers herewith vested, their own private property shall be subject to the payment thereof.

Secretary's re-  
cords to be evi-  
dence.

Sec. 2. *And be it further enacted*, That in all controversies which may arise, where the records of secretary may be required as evidence, it shall be the duty of the said secretary to produce his records, or such attested copy or copies as the case or cases may require, when legally called for, under the penalty of twenty dollars for failing so to do; and shall have for his services such fees as the said directors shall deem right.

This act shall commence and be in force from its passage.

## CHAPTER CCXXXV.

*An ACT concerning the Wilderness Road.*

Approved December 19, 1804.

The road from  
Joe's Lick to  
the Crab Or-  
chard road to  
be cleared.

SECTION 1. *BE it enacted by the general assembly*, That so much of the wilderness road that leads from Joe's Lick, in Madison county, to the intersection of the road leading from the Crab Orchard to the Cumberland Gap, shall be cleared and kept in good repair, under the direction of the Madison county court, and for that purpose the said court shall have power to lay off such

parts of the said road into precincts, as they may deem proper; and appoint a surveyor and hands to each precinct, whose duty it shall be to keep the same in good repair, according to law, in like manner and subject to the like rules, regulations and penalties, as in the case of other highways within this commonwealth. And whenever the said county court shall be of opinion that a nearer or better way can be got, than the present state road, leading from Joe's Lick to the intersection of the said Crab Orchard road, they may make such order therein as to them may appear proper, for the viewing and opening such nearer or better way, as in the case of other public or county roads. *Provided*, that the said court shall have no power to stop any part of the said state road, until hereafter authorised by law.

Sec. 2. *And be it further enacted*, That the said county court shall appoint some fit person as commissioner, who shall immediately enter into bond, with good security, to the governor and his successors, in the sum of 1000 dollars, conditioned for the faithful performance of the duties enjoined him by law, subject to a suit at the commonwealth, by the attorney for the Madison circuit court, for any failure or misconduct while acting as commissioner; and the said county court shall have power to remove such commissioner at pleasure, and appoint another in his place, as often as they shall judge proper.

It shall be the duty of the keeper of the turnpike, to pay into the hands of the said commissioner, as often as he shall be called on, a just proportion of the tolls by him received, to be ascertained by the proportion that 34 bears to 88, the number of miles that the said road bears in length to the other part of the state road, leading from the Grassy Lick to the Cumberland Gap; which money shall be laid out, under the direction of the Madison county court, in repairing and improving said road, at such places and in such manner as cannot be conveniently done by the citizens living near the said road: and the said court shall make such allowance to the said commissioner, for his services in superintending the said business, as they shall judge just and reasonable, so that such allowance shall not exceed two dollars for each day he shall be actually employed in repairing the said road: he shall make a fair statement, on oath, of all the monies by him received, and also the amount

1804.

Surveyor to be appointed, his duties, &amp;c.

Madison county court may lay out a new road.

Provided.

Commissioner to be appointed. To give bond and security.

Duty of the keeper of the turnpike.

Allowance to commissioner.

Who shall render a statement on oath.

1804.

by him expended and laid out in the hire of laborers and other necessary expenditures, in the months of April and October, annually, to the said court, who shall settle the same; and the balances of money which may be in the hands of the said commissioners, on the first day of November, in each year, shall be paid into the public treasury.

Certain parts of the road to remain under the superintendence of the former commissioner.

Sec. 3. *And be it further enacted*, That so much of the said turnpike road as lies between the Grassy Lick and the forty mile tree on said road, shall be and remain under the superintendence of the commissioner now in office, and his successors, who shall be governed as heretofore by law, who shall be styled the commissioner of the Crab Orchard road; but from the commencement of this act, shall cease to be commissioner over the residue of said road.

Power of Knox county court over a part of the wilderness road.

Sec. 4. *And be it further enacted*, That so much of the turnpike road as lies between said forty mile tree and Cumberland Gap, shall be under the care and superintendence of the Knox county court, and the same provisions, rules and regulations herein before made in regard to the part of the said road under the direction of the Madison county court, are hereby made applicable, in all respects, to the part of the said road under the direction of the Knox county court.

Further duties of the keeper.

Sec. 5. *And be it further enacted*, That the keeper shall in the same manner, at the same periods, and under the same penalties, pay to the commissioner of the Crab Orchard road, and to the commissioner of the Knox road, the money which he was heretofore directed to pay the present commissioner, in the following proportions: to the commissioner of the Crab Orchard road, two-fifths of all the money arising from said gate, after paying the Madison commissioner his proportion, and the residue of the said money shall be paid to the Knox commissioner. And the said keeper of the turnpike, and the present commissioner, shall divide all the money which may remain in their hands unexpended at the commencement of this act, agreeable to the proportions before described.

Repealing clause.

So much of any act or acts as comes within the purview of this act, is hereby repealed.

This act shall commence and be in force from and after the passage thereof,

## CHAPTER CCXXXVI.

1804.

*An ACT to amend and repeal in part an act entitled "an act incorporating the Kentucky Insurance Company."*

Approved December 19, 1804.

SECTION 1. *BE it enacted by the general assembly,* Twenty-fifth  
That the 25th section of the said recited act shall be, section repeal-  
and is hereby repealed. ed.

Sec. 2. *Be it enacted,* That the notes which the said Respecting the  
company shall at any time issue, shall not exceed the amount of notes  
debts due to them, the money in their vaults, the pro- to be issued.  
perty, real, personal or mixt, they may own, and their  
capital stock : *Provided,* that nothing herein contained Provide:  
shall be construed to extend to risks on insurance, which  
the said company may have undertaken, and which shall  
be undetermined.

Sec. 3. *Be it further enacted,* That if the president Regulations  
and directors shall, at any time, issue notes to a larger respecting the  
amount than is herein limited, and any of such notes president, &c.  
shall not be paid by the said company, the said presi-  
dent and directors shall be liable therefor out of their  
private individual fortunes. And in order to ascertain How contest to  
the fact whether the aforesaid limitation shall have been be determined.  
violated, it shall and may be lawful for any court before  
whom a contest shall arise between the holder of any  
such note and the said president and directors, to make  
an order for the production of such of the books of the  
said corporation, as will determine the fact.

Sec. 4. *Be it further enacted,* That so much of the Repealing part  
said recited act as authorises the said corporation to pro- of former law.  
ceed in a summary way, upon any bond, bill penal, writ-  
ting obligatory, or note, which does not on its face, pur-  
port to be payable and negotiable at their office, shall be  
and is hereby repealed.

This act shall commence and be in force from its pas- To commence.  
sage.

## CHAPTER CCXXXVII.

*An ACT concerning the General Court.*

Approved December 19, 1804.

WHEREAS the present arrangement of the gene- Preamble.  
ral court does not answer the purpose intended :

1804.

Judges to meet  
as usual, make  
their allotment,  
and decide ad-  
joined ques-  
tions.

Three to con-  
stitute a court.

Four to be al-  
lotted,

Clerk's fees.

Regulations  
concerning suits  
brought on false  
suggestions.

*Injunction*

Sec. 1. *Be it therefore enacted by the general assembly,* That the circuit judges shall meet at Frankfort the first of every term, as heretofore, and proceed as soon as possible, to make their allotment, and decide the questions new and difficult, which shall have been adjourned from the circuit courts, and which may be depending before them; and so soon as such business is completed, it shall be lawful for three judges to make a court.

Sec. 2. *And be it further enacted* That the judges present at every term as aforesaid, at the time of making their allotment, shall allot among themselves four of the judges, any three of whom, may sit out the remainder of the term.

Sec. 3. And the clerk of the said court shall be allowed to charge the same fees in similar cases, as the clerk of the court of appeals is entitled to.

Sec. 4. And whereas it has been represented to the general assembly, that suits have been instituted in the general court between citizens of this commonwealth, contrary to the intention of the legislature, as expressed in the acts heretofore constituting said general court: for remedy whereof,

*Be it enacted,* That if any such suit shall hereafter be brought in said court by any citizen against another citizen of this commonwealth, by means of any false suggestion or assignment, contrary to the true intention of the acts constituting the aforesaid general court; that the defendant or defendants shall have the power to exhibit a bill in chancery to any circuit judge, praying an injunction upon his suggestion, supported by his affidavit, that the suit against him was instituted in the general court aforesaid improperly, by reason that the said court ought not to have had jurisdiction of said suit; in which bill the said defendant may call upon the plaintiff in the suit before instituted against him, to answer the same, and thereupon it shall be the duty of the said circuit judge to direct the clerk to enjoin the proceedings as in other cases. And if upon the answer of the defendant in chancery, or from other evidence, satisfactory to the court, it shall appear the suit was instituted in the general court by virtue of any false suggestions, or by virtue of any assignment to give said court jurisdiction, or that the court had not properly jurisdiction

of the case, according to the true meaning and intention of the laws now in force, it shall be the duty of said court to enjoin all proceedings in the suit so brought.

1804.

Sec. 5. So much of former acts as require the allotments of the judges aforesaid, to be recorded in the several circuit courts, are repealed ; and hereafter the recording thereof in the general court, shall be sufficient.

Record of allotment.

This act shall commence and be in force from and after the passage thereof.

To commence.

### CHAPTER CCXXXVIII.

#### *An ACT concerning Attornies at Law.*

Approved December 19, 1804.

SECTION 1. *BE it enacted by the general assembly,* That where any counsel or attorney at law, shall or may hereafter undertake to manage or prosecute a suit in chancery or at common law, or make any motion to recover money, or for any other purpose, in any court in this commonwealth, and shall neglect to attend to the prosecution of such suit or motion, and the party or parties who employed such counsel or attorney, having paid the fee, or given his, her or their note in writing for the payment of the same, shall thereby suffer damages, either by nonsuit, dismissal, or for want of prosecution, such attorney shall be liable to pay to the party or parties so injured, all costs and damages thereby sustained, to be recovered by action on the case, in any court in this commonwealth having jurisdiction in suits for damages ; and wherever the party cannot obtain counsel to prosecute such suit in the general court or any circuit court in this commonwealth, it shall be the duty of the commonwealth's attorney for the general court or circuit court, upon the party or parties so injured paying him the fee allowed by law in such cases, to prosecute such suit ; and if an appeal is prayed to the court of appeals, and the aforesaid party or parties cannot obtain other counsel in said court, it shall be the duty of the attorney-general to prosecute or defend said appeal, upon his receiving the legal fee in such cases ; and where the attorney for the commonwealth in the general court or county court, or the attorney-general in case of an appeal, shall be a party, it shall be the duty of the different

Attornies liable to the clients injured, for what, and how.

Manner of recovery.

For want of counsel, how prosecution to be conducted.

In case of appeal, attorney-general to prosecute.

Court to assign counsel if attorney general be a party.

1804.

Legal fee allowed, & how paid.

In what cases attorney to re-pay fees.

Exception.

In case of failure, party to recover.

Where & how recoverable, if the fee exceed five pounds.

If under that sum.

Court to pronounce judgment.

No replevin.

courts to assign counsel to prosecute or defend said suits, as the case may be, and the counsel so assigned shall receive the fees allowed by law in like cases, to be paid by the party or parties to whom they are assigned.

Sec. 2. *And be it further enacted*, That where any person or persons of this commonwealth, shall employ and pay any counsel or attorney, in any case whatever, and such counsel or attorney shall remove, or by any means cease to practice in said court, or shall ~~not~~ attend to such employer's business, (except he is prevented by death) such fee so paid shall be re-paid to the party or parties, on demand; and in case of failure, the party shall recover such fee from any attorney so failing, if the amount of said fee shall exceed five pounds, in the general court or any circuit court in this commonwealth, by giving said attorney ten days previous notice in writing; and if the amount of the fee so paid shall not exceed five pounds, it shall be lawful for the party injured, upon his giving ten days notice in writing to the attorney, of the time and place of making such motion, to make the same before any justice of the peace in the county where the attorney resides; and upon due proof being made that the attorney has had notice, and that he has received the fee, and failed, neglected or refused to attend to the business for which he has been paid, to pronounce judgment and award execution, as in other cases before such court or justice of the peace, as the case may be; and no replevin shall be had on such execution.

This act shall be in force from its passage.

#### CHAPTER CCXXXIX.

##### *An ACT exempting conscientious persons from bearing Arms.*

Approved December 19, 1804.

Preamble.

WHEREAS it is provided by the constitution of this commonwealth, that those who conscientiously scruple to bear arms, shall not be compelled to do so, but shall pay an equivalent for personal service:

What description of persons exempted.

Sec. 1. *Be it enacted by the general assembly*, That all Quakers, Monks, and Menonists, shall be exempted from serving in the militia, on producing to the court martial of the regiment to which such person may belong,



a certificate from the minister or rulers of such sect, that he is a member thereof, and by paying one dollar per annum; and it shall be the duty of the judge advocate of such regiment, annually, in the month of December, to make out a list of all persons who are exempted in pursuance of this act, and put them in the hands of the proper officer, to be collected and accounted for as militia fines now are.

1804.

Sec. 2. *Be it further enacted*, That Menonists, Monks, and Quakers, shall continue to be enrolled in the companies to which they respectively belong, as heretofore; and that whenever it shall be necessary to call any part of the militia into actual service, if it shall fall to the lot of any of the said sects to be called out, they shall be exempted therefrom by furnishing a substitute.

In what case to  
furnish substi-  
tute:

This act shall be in force from its passage.

To commence,

## CHAPTER CCXL.

*An ACT appointing Commissioners to settle the Land Claims of the Heirs of Jacob Brehmer, deceased.*

Approved December 19, 1804.

WHEREAS it is represented to the present general assembly, that Jacob Brehmer, late of Nelson county, departed this life intestate, leaving claims to several tracts of land in different parts of this state, which the immediate relatives of the heirs of the said Jacob, have prayed may be sold for the maintenance and education of his children; which prayer is thought more reasonable, inasmuch as the children of the said Jacob are so unfortunate as to lack natural understanding, and have no other possible means of support: wherefore,

Preamble,

Sec. 1. *Be it enacted by the general assembly*, That Henry Floyd, sen. Henry Floyd, jun, John Floyd, Nathaniel Floyd, and Austin Hubbard, shall be, and they are hereby appointed commissioners for the purpose of investigating and clearing out of the land-office, any or all of the land titles of the said Jacob Brehmer, whether the same be entered in the said Brehmer's name, or assigned to him by others.

Commissioners  
appointed, and  
their duty.

Sec. 2. *Be it further enacted*, That to enable the said commissioners to perform the duties enjoined on them by this act, they, or a majority of them, are hereby authorised and empowered to dispose of, in the best man-

Further duty of  
commissioners,

1804.

The heirs not  
to be made lia-  
ble.

ner they can, and for the best price they can obtain, such part of the said land claims which may have been surveyed, as will be sufficient to defray the expenses necessary to obtain a grant or grants for the remainder thereof; and if on a settlement of the accounts of the said commissioners, as herein after mentioned, any balance shall be due to the said children, it shall be paid to the guardians or other persons appointed by the court, for the safe keeping of the said children, to be employed by them for the benefit of the said children, as the law directs. It shall be the duty of the commissioners acting, to advertise the time and place at which they may make any sale or sales under this act, at least three months, in some public paper in this state; and in case any such sales should be made by the said commissioners, they shall, in making a conveyance or conveyances for such part of the said land claims so sold by them, convey or transfer only the interest and claim of such heirs thereto at the time such sale shall be made; nor shall the said commissioners by any means obligate the said heirs to make good the title or titles to any land sold by them under the directions of this act, or to be liable for any monies or other species of property, in case the claims sold by them for the benefit of the children, as directed by this act, shall be lost or taken away in consequence of other prior or better claims or purchases whatever.

Commissioners  
to give bond &  
security, and  
where.  
Penalty.

How monies to  
be applied.

Sec. 3. *Be it further enacted*, That the said commissioners, before they enter into the duties enjoined on them by this act, shall enter into bond with approved security, to the county court of Nelson county, under the penalty of four thousand dollars, conditioned for the faithful performance of the duties enjoined on them in this act, and that they will faithfully and truly apply all monies or other species of property that may arise from the sales of any lands under this act, to the purposes therein mentioned, and to no other purpose whatever.

Nelson county  
court to make  
allowance.

How guarded  
therein.

Sec. 4. *Be it further enacted*, That the county court of Nelson shall, from time to time, as to them may seem just, make such allowance to the commissioners, as in their opinion may be right, not exceeding one dollar per day, each, for the services performed by them under this act, having due regard to all the vouchers produced by the said commissioners from the several officers legally

entitled to fees for services in obtaining grants for the said claims, and the number of days they, or either of them, or their agents, may be actually engaged in doing the duties hereby enjoined on them; accounts of all which shall be produced and sworn to, in open court; which allowance so made, and certified by the clerk, and entered on record, may be deducted by the said commissioners out of the sales of such claims, and kept by them for their services done under this act; and the commissioners hereby appointed, shall have full power and authority to perpetuate testimony relative to the said land claims, in the same manner, and under the same regulations as is now by law directed in other cases.

1804.

Accounts, &c.  
sworn to in o-  
pen court.Commissioners,  
how paid.To perpetuate  
testimony.

## CHAPTER CCXLI.

*An ACT for the relief of the Register of the Land-Office.*

Approved December 19, 1804.

WHEREAS by an act respecting the sales of non-residents' land, passed December 23d, 1802, it is provided that the purchaser of any lands sold by the register shall pay the money into the treasury, which puts it out of the power of the register to retain in his own hands, the compensation allowed him for advertising and exposing to sale said lands, and there is no other way provided by which he can get the same: for remedy whereof,

Preamble.

Sec. 1. *Be it enacted*, That the auditor, on settling the book of sales of the register, and comparing and receipting for the treasurer's receipts with the same, shall issue his warrant on the treasury for four and one half per cent. on all credits to which he may be justly entitled.

Auditor to is-  
sue warrant to  
register.

For what.

Sec. 2. *Be it further enacted*, That in order to establish more uniformity in the accounts in the register's, auditor's, and treasurer's books, that the register shall annually settle with the auditor, on the last day of October, all the payments made to the treasurer on account of taxes on the lands of non-residents, from the time the list of such lands shall be put into his hands by the auditor; and from the last day of October in each year, the register shall settle the accounts of payments made as aforesaid, weekly, until the whole shall be completed,

Regulations for  
insuring unifor-  
mity in books.

1804. and warrants shall be granted accordingly for his commission, by the auditor on the treasurer.  
This act shall be in force from and after its passage.

#### CHAPTER CCXLII.

*An ACT legalising the Marriage of Farret and Willingham.*

Approved December 19, 1804.

They had been married by Russell Hewett, a justice of Henderson county, but not specially authorized to celebrate the rites of matrimony. This act confirmed the marriage, and released the magistrate from the penalties incurred.

#### CHAPTER CCXLIII.

*An ACT to amend the Militia Laws of this Commonwealth.*

Approved December 19, 1804.

See the observations on Chap. 17, of Vol. I.

#### CHAPTER CCXLIV.

*An ACT authorising the Campbell County Court to lay their County Levy.*

Approved December 19, 1804.

Having neglected to do it in November, this act authorized it to be done in January or February.

#### CHAPTER CCXLV.

*An ACT concerning the Auditor's and Treasurer's Offices.*

Approved December 19, 1804.

See Vol. I, Chap. 1, and the Notes.

*BE it enacted by the general assembly, That the auditor of public accounts, shall, on the first Monday in March next, move his office from the room in the state-house that he now occupies, into that which at present the public printer possesses; and the public printer shall move his office on the same day into the room now in the occupancy of the auditor; and the auditor, after the removal of his office, shall cause a window to be opened in the wall between that office and the treasurer's office, and have the window grated with iron.*

bars, in such a manner that information by writing may be communicated through the same, between the auditor and treasurer. The auditor shall cause a window to be opened in the end of his office, after he removes there, and a counter to be erected similar to that in the register's office ; and also to cause the door and windows thereof to be made secure ; and the treasurer shall so form his counter, as to render the communication convenient. And as soon as the work shall be completed, the governor shall, by his order, authorise the auditor to issue his warrant on the treasury for the amount of expense incurred by the alteration hereby directed to be made.

1804.

\*\*\*\*\*

### CHAPTER CCXLVI.

*An ACT to incorporate the Ohio Canal Company.*

Approved December 19, 1804.

WHEREAS the opening of a canal at the falls of the Ohio river will be of great public utility, and many persons are willing to subscribe large sums of money to effect so laudible and beneficial a work, and it being just and proper that they, their heirs and assigns, should be empowered to receive, by way of toll, satisfaction for the money advanced by them in carrying the work into execution : therefore,

Sec. 1. *Be it enacted by the general assembly,* That it shall and may be lawful to open books in the town of Louisville, under the management of Thomas Prather, George Wilson, Peter B. Ormsby, and James Hunter ; in the town of Lexington, Alexander Parker, John Jordan, and John Bradford ; in Bairdstown, James Smiley, Thomas Speed, and William R. Hinds ; Danville, James Birney, and Barnabas Hughes ; Frankfort, John Rowan, Nicholas Clarke, and William Trigg ; Washington, John Machir, and Peter Lee ; Russellville, Ninian Edwards, and Armstead Morehead ; Paris, Thomas Hughes, and Hugh Brent ; Shelbyville, Adam Steele, and Wingfield Bullock ; Newport, Daniel May, and Edmund Taylor ; at Richmond, Martin D. Hardin, and John Patrick ; at Springfield, John Reed, James Hughes, and Jesse Head ; at Georgetown, Martin Hawkins, and Josiah Pitts ; at Mountsterling, Micajah Harrison, and James Crawford ; at the town

Books to be  
opened, and  
where.

1804. of Henderson, Samuel Hopkins, and Thomas Posey ;  
 at Winchester, George Webb, and Robert Clark, jun. ;  
 at Flemingsburg, John Faris, and John Stockdon ; and  
 in such other places, without this state, as said managers  
 may deem proper ; which subscription shall be made  
 personally or by power of attorney, and shall be paid in  
 current money of the United States, but may be paid in  
 foreign silver or gold coin of the same value ; that the  
 said books shall be opened for receiving subscriptions  
 the first day of June next, and continue open until the  
 first day of June 1807, and no longer ; except the sub-  
 scription that may be opened at Louisville, which, if the  
 whole capital hereafter mentioned shall not be subscri-  
 bed for at the places above mentioned, shall be kept  
 open until the whole of the said capital shall be sub-  
 scribed ; and after the first day of June 1807, there  
 shall be a meeting of the subscribers, personally, or by  
 their agent or attorney, at Louisville, on the first day of  
 October, after the first day of June 1807, of which  
 meeting notice shall be given by the said managers, or  
 any of them, in one of the papers printed by the public  
 printer ; but if the number of shares shall be sooner  
 subscribed to complete the capital herein after mention-  
 ed, in that case it shall be the duty of the managers, or  
 any three of them, appointed by this act, at Louisville,  
 as soon as they are informed thereof, to call a general  
 meeting of the subscribers, on a day to be by them ap-  
 pointed, and which shall be advertised at least one month  
 next before the said meeting, and such meeting shall and  
 may be continued from day to day until the business is  
 finished ; and the acting managers at the time and place  
 aforesaid, shall lay before such of the subscribers as shall  
 meet according to the said notice, the books by them  
 respectively kept, containing the state of said subscrip-  
 tions ; and a just and true list of the subscribers, with  
 the sum subscribed by each, shall be made out and re-  
 turned by the said managers, or any four or more of  
 them, under their hands, into the circuit court of Jeffer-  
 son county, to be there recorded ; and in case more  
 than fifty thousand dollars shall be subscribed, then the  
 same shall be reduced to that sum by the managers, or  
 a majority of them, by beginning at and striking off a  
 share from the largest subscription and subscriptions,  
 and by continuing to strike off a share from all subscrip-

Regulations re-  
 specting sub-  
 scriptions.

General meet-  
 ings of subscri-  
 bers, when.

Notice to be  
 given, & how.

Regulations re-  
 specting capi-  
 tal, and duty of  
 the managers at  
 Louisville.

Further duty of  
 managers.

List of subscri-  
 bers.

Where record-  
 ed.

Manner of re-  
 ducing sum sub-  
 scribed.

tions under the largest and above one share, until the sum is reduced to the aforesaid capital, or until a share is taken from all subscriptions above one share; and lots shall be drawn between subscribers of equal sums, to be determined the numbers in which the subscribers shall stand on a list to be made for striking off as aforesaid; and if the sum remaining still exceeds the capital, then to strike off by the same rule until the sum subscribed is reduced to the capital aforesaid, or all subscriptions are reduced to one share; and if there still be an excess, then lots to be drawn to determine the subscribers who are to be excluded to reduce the subscriptions to the capital aforesaid; which striking off shall be certified in the list aforesaid; and the said capital sum shall be reckoned and divided into one thousand shares of fifty dollars each, of which every person subscribing, and not excluded by the mode of striking off as aforesaid, shall have a right and be entitled to one or more whole shares, to be subscribed for and ascertained as aforesaid.

1804.

Lots to be drawn.

Further regulations respecting capital.

Number of shares, amount of each, &amp; how ascertained.

Sec. 2. *And be it enacted*, That in case the capital aforesaid shall be subscribed as aforesaid, the said subscribers and their heirs and assigns, from the time of the said first meeting, shall be, and are hereby declared to be incorporated into a company, by the name of the Ohio Canal Company; and may sue and be sued as such. And such of the said subscribers as shall be present at the said meeting, or a majority of them, are hereby required and empowered to elect a president and twelve directors for conducting the said undertaking, and managing all the said company's business and concerns, for and during such time, not exceeding two years, as the said subscribers, or a majority of them, shall think fit; and in counting the votes of all general meetings of the said company, each proprietor shall be allowed one vote for every share, as far as ten shares, and one vote for every five shares above, by him or her held at the time, in the said company; and any proprietor, by writing, under his or her hand, executed before two witnesses, may depute any other member or proprietor to vote and act as proxy for him or her at any general meeting.

When incorporated.

Regulations respecting president, &amp;c.

Proprietors to vote, &amp; how.

Sec. 3. *And be it enacted*, That the president and directors so elected, and their successors, or a majority of them assembled, shall have full power and

Canal to be cut, &amp;c.

1804.

Treasurer & other officers appointed, & their wages, & how settled, &c.

Treasurer to give bond and security.

His salary.

Regulations concerning the duty of president and directors.

Orders to be advertised.

authority to agree with any person or persons on behalf of the said company, to cut such canals, and erect such locks, and perform such other works, as they shall judge necessary, for opening, improving, and extending the navigation of the said river ; and if the said president and directors shall deem it proper and expedient, to carry on the same from place to place, and from time to time, and upon such terms, and in such manner as they shall think fit, and out of the money arising from the subscriptions and the tolls, and other aids herein after given, to pay for the same, and to repair and keep in order the said canals, locks, and other works necessary thereto, and to defray all incidental charges, and also to appoint a treasurer, clerk, and such other officers, toll-gatherers, managers, and servants, as they shall judge requisite. and to agree for and settle their respective wages and allowances, and to pass and sign their accounts, and also to make and establish rules of proceeding, and to make such by-laws, rules, and regulations, as may appear to them most conducive to the end proposed by this act ; and to contract all other business and concerns of the said company, in and during the intervals between the general meetings of the same ; and they shall be allowed, as a satisfaction for their trouble therein, such sums of money as shall, by a general meeting of the subscribers, be determined : *Provided always*, that the treasurer shall give bond, in such penalty, and with such security, as the said president and directors, or a majority of them, shall direct, for the true and faithful discharge of the trust reposed in him ; and that the allowance to be made to him for his services, shall not exceed two dollars in the one hundred dollars for the disbursements by him made ; and that no officer in the said company shall have any vote in the settlement or passing his own accounts.

*Sec. 4. And be it enacted*, That the said president and directors, and their successors, or a majority of them, shall have full power and authority, in their discretion, from time to time, as money shall be wanted, to make and sign orders for that purpose, and direct at what time, and in what proportion the proprietors shall advance and pay off the sum subscribed ; which orders shall be advertised at least two months in the paper of the public printer ; and they are hereby authorised and empowered



ed to demand and receive of the several proprietors, from time to time, the sums of money so ordered to be advanced for carrying on and executing or repairing and keeping in order the said works, until the sums subscribed shall be fully paid, and to order the said sums to be deposited into the hands of the treasurer, to be by him disbursed and paid out, as the said president and directors, or a majority of them, shall order and direct; and if any of the said proprietors shall refuse or neglect to pay their said proportions within one month after the same so ordered and advertised as aforesaid, the said president and directors, or a majority of them, may sell at auction, and convey to the purchaser, the share or shares of such proprietors so refusing or neglecting payment, giving at least two months notice of the sale, in the paper of the public printer; and after retaining the sum due and charges of sale out of the money produced thereby, they shall refund and pay the overplus, if any, to the former owner; and if such sale shall not produce the full sum ordered and directed to be advanced as aforesaid, with the incidental charges, the said president and directors, or a majority of them, may, in the name of the company, sue for and recover the balance, by action of debt, or on the case; and the said purchaser or purchasers shall be subject to the same rules and regulations as if the said sale and conveyance had been made by the original proprietor. And to continue the succession of the said president and directors, and to keep up the same number,

1804.

How works to be carried on and kept in repair.

Shares sold at auction.

Sec. 5. *Be it enacted*, That from time to time, upon the expiration of the said term for which the said president and directors were appointed, the proprietors of the said company, at the next general meeting, shall either continue the said president and directors, or any of them, or choose others in their stead; and in case of the death, removal, resignation, or incapacity of the said president, or any of the said directors, may and shall, in manner aforesaid, elect any other person or persons to be president and directors in the room of him or them so dying, removing, or resigning; and may at any of their general meetings remove their president, or any of the directors, and appoint others for, and during the remainder of the term for which such person or persons were at first to have acted.

President & directors, how continued.

1804.  
To take oath.

Sec. 6. *And be it enacted,* That every president, director and treasurer, before he acts as such, shall take an oath or affirmation for the due execution of his office.

How general  
meetings con-  
stituted, & re-  
gulations re-  
specting them.

Sec. 7. *And be it enacted,* That after the said first meeting of the subscribers at Louisville, as aforesaid, the attendance of proprietors in person, or by proxy, having 100 shares at the least, shall be necessary to constitute a meeting of the proprietors on the first day of October after the first day of June 1807, in every year, at such convenient place as shall be from time to time appointed by the said general meeting; but if a sufficient number should not attend on that day, the proprietors who do attend, may adjourn the meeting from day to day, until a general meeting of the proprietors shall be had, which may be continued from day to day until the business of the company is finished; to which meeting the president and directors shall make reports, and render distinct and just accounts of all their proceedings, and on finding them justly and fairly stated, the proprietors then present, or a majority of them, shall give a certificate thereof, a duplicate of which shall be entered in the company's books; and at such yearly general meetings, after leaving in the hands of the treasurer such sum as the proprietors, or a majority of them, shall judge necessary for repairs and contingent charges, an equal dividend of all the nett proceeds arising from the tolls hereby granted, shall be ordered and made to and among all the proprietors of the said company, in proportion to their several shares; and upon any emergency in the interval between the said yearly meetings, the said president, or a majority of the said directors, may appoint a general meeting of the proprietors of the said company, at any convenient place, giving at least one month previous notice in the paper of the public printer, which meeting may be adjourned and continued as aforesaid.

Toll & profits,  
how to be di-  
vided.

How meeting  
to be called in  
cases of emer-  
gency.

And whereas it is necessary for making the said canal, locks, and other works, that a provision should be made for condemning a quantity of land for the purpose:

How ground to  
be condemned.

Sec. 8. *Be it enacted,* That it shall and may be lawful for the president and directors, or a majority of them, to agree with the owners of any land through which the

said canal is intended to pass, for the purchase thereof; and in case of disagreement, or in case the owner thereof shall be a *feme covert*, under age, *non compos*, or out of the state, on application to any two justices of the peace for the county in which such lands shall lie, the said justices shall issue their warrant, under their hands, to the sheriff of their county, to summon a jury of twenty-four inhabitants of his county, of property and reputation, not related to the parties, nor in any manner interested, to meet on the land to be valued, at a day to be expressed in the warrant, not less than ten nor more than twenty days thereafter; and the sheriff, upon receiving the said warrant, shall forthwith summon the said jury, and when met, shall administer an oath or affirmation to every jurymen that shall appear, that he will faithfully, justly and impartially value the land (not exceeding in any case the width of 100 feet) and all damages the owner thereof shall sustain by cutting the canal through such land, according to the best of his skill and judgment, and that in such valuation he will not spare any person for favor or affection, nor any person grieve, for hatred, malice, or ill will; and the inquisition thereupon taken, shall be signed by the sheriff, and some twelve or more of the jury, and returned by the sheriff to the clerk of his county, to be by him recorded; and upon every such valuation, the jury is hereby directed to describe and ascertain the bounds of the lands by them valued, and their valuation shall be conclusive on all persons, and shall be paid by such president and directors to the owner of the land, or his legal representatives; and on payment thereof, the said company shall be seized in fee of such land as if conveyed by the owner to them, and their successors, by legal conveyance: *Provided nevertheless*, that if any further damage shall arise to any proprietor of land, in consequence of opening such canal, or erecting such works, than had been before considered and valued, it shall and may be lawful for such proprietor, as often as any such new damage shall happen, by application to, and warrant from any two justices of the county where the lands lie, to have such further damage valued by a jury in like manner, and to receive and recover the same of the said president and directors; but nothing herein contained shall be taken or construed to entitle the proprietor of any

1804.

Jury to be summoned.

Form of oath.

Sheriff's duty.

Valuation of jury conclusive.

Damages, how paid.

Further regulations respecting damages.

1804.

such land to recover compensation for any damage which may happen to any mills, forges, or other works of improvement which shall be begun or erected by such proprietor, after such first valuation, unless the same damage is wilfully or maliciously done by the said president and directors, or some person by their authority.

Quantity of  
land to be pur-  
chased, & how.

On which to  
erect buildings,  
&c.

Sec. 9. *And be it enacted*, That the said president and directors, or a majority of them, are hereby authorised to agree with the proprietors for the purchase of a quantity of land, not exceeding one acre, at or near the place or places of the receipt of tolls, for the purpose of erecting necessary buildings, or in case of disagreement, or any of the disabilities aforesaid, or the proprietor being out of the state, then such land may be valued, condemned, and paid for as aforesaid, for the purpose aforesaid; and the said company shall, upon payment of the valuation of said land, be seized thereof in fee simple as aforesaid.

Concerning  
mills, forges,  
&c.

And whereas some of the places through which it may be necessary to conduct the said canals, may be convenient for erecting mills, forges, or other water works, and the persons possessed of such situation may design to improve the same; and it is the intention of this act not to interfere with private property, but for the purpose of improving and perfecting the said navigation:

Company may  
purchase lands  
of proprietors  
for building, or  
may sell or  
lease water to  
proprietors to  
erect water-  
works.

Sec. 10. *Be it enacted*, That the water, or any part thereof, conveyed through any canal, cut or made by the said company shall not be used for any purpose but navigation, unless the consent of the proprietors of the land through which the same shall be led, be first had; and it shall be lawful for the Ohio canal company to purchase of the proprietor or proprietors of the lands adjoining to the canal, so much land as the said company may judge necessary to erect mills or other water works thereon, or to sell or lease to the said proprietor or proprietors, such portions of the water as the said president and directors may think proper, for the erection of water works. And the said president and directors, or a majority of them, are hereby empowered and directed, if it can be conveniently done, to answer both the purposes of navigation and water works aforesaid, to enter into reasonable agreements with the proprietors of such situation, concerning the just proportion of the expenses of making large canals or cuts, ca-

President and  
directors may  
make contracts.

pable of carrying such quantities of water as may be sufficient for the purpose of navigation, and also for any such water works as aforesaid. 1804.

Sec. 11. *And be it enacted,* That it shall and may be lawful for every of the said proprietors to transfer his or her share or shares, by deed executed before two witnesses, and registered after the proof of the execution thereof, in the said company's books, and not otherwise, except by devise, which devise shall also be exhibited to the president and directors, and registered in the company's books before the devisee or devisees shall be entitled to draw any part of the profits from the said tolls:

*Provided,* that no transfer whatever shall be made, except for one or more whole share or shares, and not for part of such shares, and that no share shall at any time be sold, conveyed, transferred, or held in trust for the use and benefit, or in the name of another, whereby the said president and directors, or proprietors of the said company, or any of them, shall or may be challenged or made to answer concerning any such trust; but that every person appearing as aforesaid, to be a proprietor, shall, as to the others of the said company, be, to every intent, taken absolutely as such, but as between any trustee and the person for whose benefit any trust shall be created, the common remedy may be pursued. Share how to be transferred, Provide respecting transfers, &c.

And whereas it hath been represented to this present general assembly, that sundry persons are willing and desirous, on account of the great public advantage and the improvements their estates may receive thereby, to promote and contribute towards so useful an undertaking, and to subscribe sums of money towards the completing the said works, and carrying them into execution, but do not care to run any risk, or desire to have any property therein: therefore,

Sec. 12. *Be it enacted,* That the said president and directors shall be, and are hereby empowered to receive and take in subscriptions for the purposes aforesaid; and it is the true intent and meaning of this act, that it shall and may be lawful for the said president and directors, or a majority of them, in case of refusal or neglect of payment, in the name of the company aforesaid, to sue for and recover of the said subscribers, their heirs, executors or administrators the sums by them re- President and directors may take subscriptions, & regulations respecting them.

1804.

Capital how to  
be increased, if  
necessary.

Notice thereof,  
& where to be  
published.

Regulations re-  
specting addi-  
tional subscrip-  
tions.

The works and  
profits to be  
vested in pro-  
prietors, &c. as  
tenants in com-  
mon.

Made real es-  
tate, & exempt  
from tax, &c.

President, &c.  
to demand tolls.

spectively subscribed, by action of debt or upon the case, in any court of record within this state.

Sec. 13. *And be it enacted*, That if the said capital and said aids shall prove insufficient, it shall and may be lawful for the said company, from time to time, to increase the said capital, by the addition of so many more whole shares as shall be judged necessary by the said proprietors, or a majority of them, holding at least one hundred shares, present at any general meeting of the said company; and the said president and directors, or a majority of them, are hereby empowered and required, after giving at least one month's previous notice in the paper of the public printer, to open books in the before mentioned places, for receiving and entering such additional subscriptions, in which the proprietors of the said company for the time being shall and are hereby declared to have the preference of all others, for the first days after the said books shall be opened as aforesaid, of taking and subscribing for so many whole shares as any of them shall choose; and the said president and directors are hereby required to observe, in all other respects, the same rules therein, as are by this act prescribed for the receiving and adjusting the first subscriptions, and in like manner to return, under the hands of three or more of them, an exact list of such additional subscribers, with the sums by them respectively subscribed, into the court of Jefferson as aforesaid, to be there recorded; and all proprietors of such additional shares, shall, and are hereby declared to be, from thence forward, incorporated into the said company.

Sec. 14. *And be it enacted*, That in consideration of the expenses the said proprietors shall be at in opening the said river and improving and extending the navigation thereof, and in keeping the works in repair, the said works and canals, with all their profits, shall be, and the same are hereby vested in the said proprietors, their heirs and assigns forever, as tenants in common, in proportion to their respective shares, and the same shall be real estate, and be forever exempt from the payment of any tax, imposition or assessment, whatever; and that it shall and may be lawful for the said president and directors, at all times forever hereafter, to demand and receive, at such place or places on the said canal, as they shall hereafter adjudge and determine to be most conve-

### XIII. YEAR OF THE COMMONWEALTH.

231

nient, for all merchandise and commodities conveyed through the whole extent of said canal, according to the following table and rates, to wit: 1804.

|                                                                                            | D. C. | Amount of<br>tolls. |
|--------------------------------------------------------------------------------------------|-------|---------------------|
| For each boat (except ferry boats), not more than 14 feet wide, and 30 feet long, - - -    | 3     |                     |
| For each boat not more than 14 feet wide and 45 feet long, - - - - -                       | 4     |                     |
| For each boat not more than 14 feet wide, and 60 feet long, - - - - -                      | 5     |                     |
| And every foot over and above 14 feet wide and 60 feet long, - - - - -                     | 9     |                     |
| For each keel-boat, perogue or canoe not more than 35 feet long, - - - - -                 | 2     |                     |
| For each keel-boat, perogue or canoe not more than 45 feet long, - - - - -                 | 3     |                     |
| For each keel-boat, perogue or canoe not more than 60 feet long, - - - - -                 | 4     |                     |
| And every foot over and above 60 feet long, - - - - -                                      | 9     |                     |
| For each hundred pipe or hogshead staves, or pipe or hogshead, if floated on a raft, - - - | 4     |                     |
| For each hundred feet of plank or scantling, if floated on a raft, - - - - -               | 4     |                     |
| For each hundred cubit feet of other timber, if floated on a raft, - - - - -               | 9     |                     |

*Provided, however,* that no boat, perogue, or canoe, loaded with coal, lime, iron, or other ore or household furniture, shall pay more than three-fourths of the above prices, and that the said rates, under the limitations aforesaid, shall be collected at such places, and in such proportions, and in such manner, at the said respective places, as the president and directors of the said company, or a majority of them, may from time to time determine, and that the said tolls be rated and paid in current money of the United States, or may be discharged in foreign gold and silver of equal value. Provided,  
How rates to  
be collected.

Sec. 15. *And be it enacted,* That the books of the said company shall always be open to the inspection of the general assembly of Kentucky, or any person or persons to be appointed by them for that purpose. Company's  
books always  
open to the in-  
spection of the  
general assem-  
bly.

Sec. 16. *And be it enacted,* That the tolls herein before allowed to be demanded and received, are granted and shall be payable on condition only that the said Concerning the  
tolls.

1804. Ohio canal company, shall make the canal sufficiently capable of being navigated, except in dry seasons, for vessels and rafts drawing four weat water at the least.

To begin water-works with in 3 years, and the consequence of failure there in.

Sec. 17. *And be it enacted*, That in case the said company shall not begin the said work within three years after the passage of this act, that then the said company shall not be entitled to any benefit, privilege or advantage under this act; and in case the said company shall not complete the said canal on or before the first day of January 1812, then shall all interest of the said company, and all preference in their favor, as to the navigation and tolls, at, to, or through any other part of the said canal, be forfeited and cease.

And whereas weirs may be erected in and upon the said canal, when cut, and trees may be fallen in and across the said canal, and other obstructions therein, to the great injury of the navigation of said canal:

Respecting obstructions.

Sec. 18. *Be it enacted*, That all weirs hereafter to be made in said canal, and all trees or other obstructions which may be across any part of the said canal, so as to stop the passage of any vessel, raft, or timber, shall be deemed and are hereby declared nuisances, and the same may be removed or destroyed by the said president, directors, or any of them.

Not to be built without the consent of the president.

Sec. 19. *And be it enacted*, That no person or persons, unless with the consent of the said president and directors, shall hereafter put, place or make any weir, or fall any tree or trees in or across the said canal, so as to stop the passage of any vessel, raft, or timber, as the case may be, any where in the said canal, under the penalty of ten dollars, current money, for every such offence, to be recovered before any justice of the peace, in the name of the Ohio canal company, and to their use, to be applied towards the improvement of the navigation of the said river or canal, to be cut as aforesaid.

Penalty for so doing.

How recoverable, & how applied.

And whereas sound policy requires that the laudable design of those who may become adventurers in the aforesaid company, should be patronised by legislative sanction:

Scheme, &c. of lottery may be proposed.

Sec. 20. *Be it enacted*, That in case a sufficient sum of money shall not be raised in manner aforesaid, for the purpose of completing the works above mentioned, that it shall and may be lawful for the said directors of the Ohio canal company, or a majority of them, to propose



any scheme or schemes of a lottery for the raising of a sum of money not exceeding fifteen thousand dollars, and to sell and dispose of the tickets therein; provided the said directors, or a majority of them, shall, before the sale or disposal of any ticket or tickets in such lottery, give bond to the state of Kentucky, in the penalty of thirty thousand dollars, conditioned that they will well and truly apply the monies arising therefrom, within six months after the drawing thereof, to the payment of the prizes drawn by the fortunate adventurers in the said lottery, upon application being made by him, her or them, for the same, and the necessary expenses incurred in the management thereof, and the residue to the use of the company, in such manner and to such purposes as the said directors ought to apply the monies arising from the subscriptions in the said company, to carry into effect the provisions of this act.

1804.

Directors to  
give bond.

Penalty thereof.

Further provi-  
sions respecting  
lottery.

Sec. 21. *And be it enacted*, That the said bond shall be lodged in the clerk's office of the county court of Jefferson, to be by him recorded; and when recorded, a copy of such bond, under the hand of the said clerk, shall be good evidence in an action of debt against the said obligors, or any of them, their or either of their heirs, executors or administrators, brought in the name of the state, for the use of any person concerned for any breach or non-compliance with the condition of the same.

Said bond where  
to be lodged &  
recorded.

To be evidence.

Sec. 22. *Provided nevertheless, and be it enacted*, That nothing in this act contained shall authorise the said directors to hold such lottery, or sell or dispose of any ticket or tickets for the same, unless the directors, or a majority of them, shall first take an oath or affirmation, before some justice of the peace of the county, that they will honestly demean themselves as managers and judges of the said lottery, and that they will faithfully render unto the fortunate adventurers, their respective prizes; and a certificate of such oath shall be returned with the bond aforesaid, to the county clerk's office, under the seal of the justice who shall have administered the same.

Provido respect-  
ing lottery.

Sec. 23. *And be it enacted*, That the said canal, and the works erected thereon in virtue of this act, when completed, shall forever thereafter be esteemed and taken to be navigable as a public highway, free for the

Canal to be for-  
ever considered  
as a public  
highway.

1804. transportation of all goods, commodities, or produce whatever, upon payment of the tolls imposed by this act; and no other toll or tax whatever, for the use of the water of the said river and the works thereon erected, shall at any time hereafter be imposed by the said company, president and directors, unless with the consent of the legislature of this state: *And provided always*, that the same shall be subject to such further regulations by the legislature as they shall deem expedient, in order to prevent imposition by the said president and directors, or to prevent fraud in evading the payment of tolls imposed on all articles or commodities carried up or down any part of the said canal.

No higher tolls to be imposed.

Unless with the consent of the legislature, and subject to further regulations by them.

To commence. This act shall be in force from the passage thereof.

---

#### CHAPTER CCXLVII.

*An ACT providing for furnishing Seals for the Circuit Courts.*

Approved December 19, 1804.

WHEREAS it is expedient that each of the circuit courts in this commonwealth should possess a seal of office, and no provision hath heretofore been made for that purpose :

*Be it enacted*, That it shall be the duty of each circuit court to procure a seal of office for their respective courts. *Provided*, that the price of such seals shall not exceed the sum of ten dollars, and that the same be paid for out of the money arising from law process in the court for which such seal may be procured, to be accounted for and settled in the account of the clerk of such court with the auditor of public accounts.

This act shall commence and be in force from and after the passage thereof.

---

#### CHAPTER CCXLVIII.

*An ACT to amend and explain the several acts concerning Surveyor's Fees.*

Approved December 19, 1804.

WHEREAS doubts have arisen what fees the several surveyors in this commonwealth are entitled to receive on original surveys : therefore,

### XIII. YEAR OF THE COMMONWEALTH.

235

*BE it enacted by the general assembly, That the several surveyors in this commonwealth are authorised to demand and receive for every original survey hereafter to be made, not exceeding 400 acres, the sum of 3 dollars and 50 cents; and for every original survey which may exceed 400 acres, the surveyor shall be entitled to the above mentioned fee, and the sum of 25 cents for each hundred acres more than that quantity, and no more; any law to the contrary notwithstanding. This act shall be in force from and after its passage.*

1804.

#### CHAPTER CCXLIX.

*An ACT to revive and continue in force an act making provisions for the Attornies for the Commonwealth.*

Approved December 19, 1804.

*BE it enacted by the general assembly, That the act entitled an act making provision for the attornies for the commonwealth, approved December 27th 1803, shall be, and the same is hereby continued; and the provisions thereof shall be considered as applicable and obligatory on the different courts, for the term of one year. This act shall be in force from its passage.*

#### CHAPTER CCL.

*An ACT to amend an act entitled "an act to provide for the payment of Postage on public Communzations made to the Executive of this State."*

Approved December 19, 1804.

*BE it enacted by the general assembly, That the governor of this commonwealth, whenever he shall find it necessary to forward militia or other commissions, or any orders to any general or field officer, by post, shall pay the postage thereon, and draw on the auditor of public accounts for a warrant for the amount thereof, which warrant the auditor is hereby directed and requested to issue.*

*This act shall commence and be in force from and after the passage thereof.*

1804.

## CHAPTER CCLI.

*An ACT concerning the promulgation of the Opinions of the Court of Appeals.*

Approved December 19, 1804.

*Vide Vol. I, Chap. 24.*

Preamble.

WHEREAS it is desirable that there should be as uniform rules of decision as possible in the courts of this commonwealth; and whereas the promulgation of the opinions of the court of appeals would tend greatly to facilitate that object: therefore,

Opinions to be transcribed, and delivered to the public printer.

Sec. 1. *Be it enacted by the general assembly,* That the clerk of the court of appeals be, and he is hereby directed and required to make a fair transcript of all the decisions of the court of appeals, since the first day of March 1801, in which the case is stated, and the reasons of the court are given at large, and before the first day of April next, deliver the same to the public printer of this commonwealth, whose duty it shall be to print the same with all convenient dispatch, and deliver to the secretary of state, one copy for each of the judges of the circuit courts, and each judge of the court of appeals, and another copy to be deposited in the clerk's office of each court in this commonwealth, for the use of said courts, free for the inspection of all persons who may wish to inspect the same in the offices aforesaid.

To whom to be distributed.

Hughes's reports to be purchased for the circuit courts.

Sec. 2. *Be it further enacted,* That the governor be, and he is hereby requested to purchase a copy of Hughes's Reports, for each circuit court in this commonwealth, which shall be transmitted to the clerks of the said courts, with the acts of the present session, and shall be kept by them for the use of their respective courts, and all others who are desirous of examining them. *Provided,* that no person, except the judges, and they only in term time, shall be permitted to take the said book out of the clerk's office. And the auditor is hereby directed to issue his warrant on the treasurer, upon the order of the governor, for the sum the said books may cost.

Proviso.

Allowance to clerk of the court of appeals.

Sec. 3. *And be it further enacted,* That the clerk of the court of appeals shall be allowed two cents for every twenty words, for the services hereby required of him; and the auditor of public accounts shall issue his warrant on the treasury for the same.

This act shall commence and be in force from the passage thereof.

## CHAPTER CCLII.

1804.

*An ACT establishing sundry Inspections of Beef and Pork.*

Approved December 19, 1804.

*Vide Vol. I, Chap. 58, and the Notes.*

SECTION 1. *BE it enacted by the general assembly,* County courts That the county courts of the several counties herein to appoint in-  
mentioned, shall appoint a fit and proper person as an spectors.  
inspector of salted beef and pork intended for exportation, at the several places herein after mentioned, who, *Grhall*  
before they enter on the duties of their offices, shall take  
the following oath or affirmation: "I, A. B. do so- Their oath,  
lemnly swear (or affirm, as the case may be) that I will  
well and truly execute, to the best of my skill and judg-  
ment, the duties of inspector of salted beef and pork,  
and that I will neither be governed by envy, favor, or  
affection, to any person or persons, in the discharge of  
the duties enjoined me by law."

Sec. 2. *And be it further enacted,* That such inspec- Their duty,  
tor, in the place where he shall be appointed, and where  
beef and pork shall be packed for exportation, shall see  
that each barrel be carefully picked and packed, that the  
casks are in good order for shipping, and that there is a  
sufficient quantity of salt in each barrel to preserve the  
meet therein.

Sec. 3. *And be it further enacted,* That every barrel Barrel to con-  
so salted and inspected, shall contain not less than two tain 200lb.  
hundred pounds nett weight of pork or beef; that beef  
of the first quality, consisting of the best pieces, being  
free from necks and shanks, be denominated mess beef; Denomination  
that barrels consisting of an equal proportion of each of beef & pork.  
quarter, be denominated prime beef; that every barrel  
of pork consisting of the best pieces, being free from  
heads and shanks, shall be denominated mess pork; *E. 1*  
that every barrel containing an equal proportion of the  
whole quantity contained in the barrel, shall be denomi-  
nated prime pork; and the inspector shall brand each  
barrel in at least two places, one on the head and the  
other on the side, with the words "mess beef," or  
"prime beef," "mess pork," or "prime pork," as the Brands.  
case may be, which several brands with a brand naming  
the place of inspection, and it shall be the duty of such  
inspector, when beef or pork shall be intended for ex-

1804.

Penalty for sell-  
ing beef or pork  
under weight.

portation, to see that the same be packed in the manner above directed.

Sec. 4. *And be it further enacted*, That if any person shall offer to sell at such places as inspections are established by this act, for exportation, any barrel of beef or pork of less weight than is hereby directed, or which shall not have been inspected according to this act, he or she so offending shall, on due proof thereof, before a justice of the peace, forfeit and pay for every barrel the sum of ten dollars, one half to the use of the county, towards lessening the county levy, and the other half to the use of the informer.

Penalty for  
shifting flesh af-  
ter inspection.

Sec. 5. *And be it further enacted*, That if any person shall shift any flesh so packed and branded by the inspector, after inspection, from the barrel so branded, on board any ship, vessel, or boat, or on shore, and offer to ship or export the same, after having shifted the same, and being convicted thereof, shall forfeit the sum of 15 dollars for every barrel, to be recovered and applied as aforesaid; and if any person other than the sworn inspector, shall presume to mark or brand any barrel of beef or pork as hereby directed, on conviction, shall forfeit and pay 15 dollars for every barrel so marked or branded, to be recovered and applied as above.

Inspector's  
compensation.

Sec. 6. *And be it further enacted*, That the inspector may charge and demand from the owner of such beef or pork, for every barrel so inspected and packed, and for packing and branding each barrel and giving a certificate thereof, the sum of twenty-five cents, and which he shall have a right to demand and receive of the owner so soon as he shall have inspected, packed and branded the same, as is hereby directed.

Penalty on in-  
spector for ne-  
glect of duty,  
Sec.

Sec. 7. *And be it further enacted*, That if any inspector so appointed, and who shall qualify as this act requires, shall neglect or refuse to perform the duties of inspector, when thereto required, shall forfeit and pay 50 dollars, to be recovered and applied as is by this act directed, and shall moreover be liable to removal from office, and another appointed in his place; and if any inspector so appointed and qualified, shall presume to mark or brand any barrel of beef or pork without examining the same, and which shall be of less weight than is by this act required, and shall be convicted thereof, shall forfeit and pay 20 dollars, to be recovered before

any court having competent jurisdiction thereof, and applied as aforesaid.

1804.

Sec. 8. *And be it further enacted*, That an inspection of the aforesaid articles shall be established in the town of Maysville, in the county of Mason; at Augusta, in the county of Bracken; at the Lower Blue Licks, in Nicholas county; at Newport, in the county of Campbell; at Port-William, in Gallatin county; at Louisville, in Jefferson county; at the mouth of Clover, in the county of Breckenridge; at the town of Henderson, in the county of Henderson; at the mouth of Cumberland, in the county of Livingston; at the town of Frankfort, in the county of Franklin; at the town of Greensburg, in Green county; at Stewart's creek ware-house, on the Beech Fork, in the county of Nelson; at the mouth of Hickman, in Jessamine county; at Curd's ware-house, at the mouth of Dick's river, in Mercer county; at the mouth of Sugar creek, in Garrard county; at the town of Falmouth, in Pendleton county; at the mouth of Greasy creek, in Adair county; at the mouth of Beaver creek, in Harrison county; on the lands of Robert Clarke, at Doom's ware-house, in the county of Washington; at Bush's landing, in the county of Clarke; at the mouth of Salt river, in Hardin county; at Beallsburg, opposite the mouth of the Beech Fork; at the mouth of Sinking, in the county of Breckenridge; at Jack's creek ware-house, in the county of Madison; and at Boonsborough, in the said county.

Inspections,  
where establish-  
ed.

This act shall be in force from its passage.

#### CHAPTER CCLIII.

##### *An ACT amending the Attachment Law.*

Approved December 19, 1804.

*Vide* Vol. I, Chap. 23, and the prelection.

SECTION 1. *BE it enacted by the general assembly*, That it shall and may be lawful for any creditor, where his debt doth not exceed five pounds, to go before any justice of the peace of the county where his debtor resides, and make oath how much is justly due him, and that he has grounds to suspect, and verily believes that such debtor intends to remove his effects, or so to dispose of them as to evade the payment of the debt he

Proceedings on  
attachment  
where the debt  
is under 5l,

1804.

owes him; and thereupon such justice shall issue an attachment against the estate of such debtor, returnable before himself or some other justice of the peace, directed to all constables and sheriffs in the commonwealth of Kentucky; and by virtue thereof, it shall be lawful, as well for the sheriff or any constable of the county where such attachment shall be obtained, as for the sheriff or any constable of other counties, to pursue and seize such effects, and make return of such attachment to some justice of the peace of the county where such attachment shall be levied; and thereupon such proceedings shall be had as in other cases of attachment.

Plaintiff to give  
bond, &c.

Property may  
be replevied.

Sec. 2. *Be it further enacted*, That any person obtaining an attachment as aforesaid, shall give bond and security, with the justice from whom it may be obtained, as in other cases of attachments. And in all cases the property so attached may be replevied by the debtor or agent, by giving bond and sufficient security to the officer attaching the same.

#### CHAPTER CCLIV.

##### *An ACT to amend the Penal Laws.*

Approved December 19, 1804.

*Vide Vol. II, Chap. 4.*

##### SECTION 1. *BE it enacted by the general assembly,*

Convict escap-  
ing, to suffer  
additional im-  
prisonment.

That any convict who shall escape from the penitentiary, contrary to law, and shall be re-taken and conveyed back to it, shall undergo a farther confinement therein, of two years, after he or she shall have actually served out the whole time for which such offender was before sentenced to confinement, and under the same rules and regulations; and the expenses of re-taking and conveying any such offender, shall be charged to him or her, as in other cases.

Chargeable  
with the ex-  
penses.

Punishment for  
wounding, if  
death does not  
ensue.

Sec. 2. *Be it further enacted*, That if any person shall wilfully and maliciously, with an intent to kill any person, shoot with a gun, or other instrument loaded with a leaden bullet, or other hard substance, and thereby wound any person whatever, without killing; or shall cut or stab any person with a sword or other deadly weapon, who dies not thereof, in attempting wilfully and maliciously to kill another, every such offender, his or her aiders, abettors and counsellors, shall undergo a



confinement in the jail and penitentiary for a period not less than one, nor more than five years.

1804.

Sec. 3. *Be it further enacted*, That so much of the act that passed in the year 1802, respecting riots, routs, and unlawful assemblies of the people, as goes to repeal the 22d section of the act entitled "an act to amend an act entitled an act to amend the penal laws of this commonwealth," that passed in the year 1801, shall be, and the same is hereby repealed; and the said 22d section of the last recited act, is hereby revived, and declared to be in complete force, and the 32nd section of said act is hereby repealed.

Certain clauses repealed.

Sec. 4. *Be it further enacted*, That no person, neither a free one nor a slave, shall be discharged for any defect in the warrant or mittimus, if the nature and description of the offence appears therefrom, notwithstanding the want of technical or appropriate terms, or a seal, &c. and the same runs in the name of the commonwealth of Kentucky.

Defects in warrant, &c. not to produce the prisoner's discharge.

Sec. 5. *Be it further enacted*, That if the five senior justices summoned to hold an examining court for the trial of a free person, or a court of oyer and terminer for the trial of a slave, or three of them, shall fail to attend for that purpose, the sheriff shall summon any other justices for the county, except the one who committed the accused, so as to constitute a court of three justices, who shall form a court as complete as if the senior justices had attended, and proceed to trial, and shall act accordingly in every respect.

Proviso in case all the justices do not attend.

Sec. 6. *Be it further enacted*, That no act of limitations shall apply to any felony or other crime punishable by confinement in the penitentiary, hereafter committed; and no appeal or writ of error shall be had in any case prosecuted under the act respecting riots, routs, and unlawful assemblies of the people, or under the act respecting the disturbance of religious societies.

Acts of limitation not to apply to criminal cases.

Appeals prohibited in prosecutions for riot, &c.

Sec. 7. *Be it enacted*, That every person or persons who shall sell any spiritous or fermented liquors within one half mile of any assembly of people assembled for the purpose of religious worship, (the distance to be judged of by the justice) shall be fined in the sum of ten dollars, on conviction, before a justice of the peace; which fines shall be applied to lessening the county levy.

Liquor not to be sold near places of worship.

*Provided*, That nothing contained in this section shall

Proviso.

1804. be so construed as to affect those who may be legally authorised to vend liquors in taverns or still-houses.

Justices exempted from juries. Sec. 8. *And be it further enacted*, That all justices of the peace shall be exempted from serving on grand or petty juries.

Justices may take bail in criminal cases. Sec. 9. *Be it further enacted*, That when any prisoner shall be brought before any justice of the peace in this commonwealth, under any felonious charge, which is bailable by the constitution of this state, and it shall be deemed by such justice that such charge ought to be enquired into by a court to be called for the examination of such charge, it shall be lawful for such justice to take his or her recognizance, with sufficient security, to appear before the court to be held for his or her examination.

County courts to make allowance to jailors out of the county levy. Sec. 10. *Be it enacted by the general assembly*, That the several county courts of this commonwealth, at the time of laying their respective levies, shall make such allowance to the jailors as they may think proper, for keeping the jail clean, furnishing fuel and candles for the jail, and ammunition for the guards who shall be legally employed about the jail; and also for attending on called courts with prisoners, the said jailors shall be allowed one dollar per day, to be laid as aforesaid.

#### CHAPTER CCLV.

*An ACT for the relief of John H. Craig and John Allen, Administrators of Elizabeth Snelling, deceased.*

Approved December 19, 1804.

Elizabeth Snelling had been sole executrix to her husband's estate in Virginia, and being so she removed to Woodford county, and died. The county court of Woodford appointed Craig and Allen administrators of the estate in her possession. This act says it was doubtful whether the county court had power so to do, and then legalises the proceeding.

#### CHAPTER CCLVI.

*An ACT establishing sundry Inspections of Flour, Hemp and Tobacco, in this Commonwealth.*

Approved December 19, 1804.

*Vide Vol. I, Chap. 58, and the Notes.*

Inspections established at Greasy creek, SECTION 1. *BE it enacted by the general assembly*, That an inspection of flour, hemp and tobacco, be established at the following places, to wit: at the mouth of Greasy creek, on the upper side of the creek, on Cum-

berland river, in the county of Cumberland, to be called 1804.  
 and known by the name of the Greasy creek inspection ;  
 at Jackson's ferry, on Cumberland river, in the county Jackson's,  
 of Cumberland, to be called and known by the name of  
 Jackson's inspection ; at Doran's mill, on the Rolling Doran's,  
 fork, in the county of Washington, to be called and  
 known by the name of Doran's inspection ; at the Indian creek,  
 mouth of Indian creek, on the land of William Jack-  
 man, in the county of Wayne, to be called and known  
 by the name of Indian creek inspection ; in the coun- Watts's,  
 ty of Boone, on the land of John Watts, in Woolper's  
 bottom, to be called and known by the name of Watts's  
 inspection ; in the county of Pulaski, on the land of Montgomery's,  
 James Montgomery, on Cumberland river, and on the  
 north side thereof, to be called and known by the name  
 of Montgomery's inspection ; at the mouth of Johnson, Throckmor-  
 in the county of Nicholas, on the lands of John Throck- ton's,  
 morton, to be called and known by the name of Throck-  
 morton's inspection ; at Falmouth, in the county of Falmouth,  
 Pendleton, to be called and known by the name of Fal-  
 mouth inspection. An inspection of flour, on Buck Davis's,  
 creek, in Pulaski county, on the lands of Baxter Davis,  
 to be called and known by the name of Davis's inspec-  
 tion. An inspection of flour, hemp, beef, pork and to- Forfythe's,  
 bacco, in Logan county, on the lands of William For-  
 sythe, on Green river, to be erected on lots No. 5, 6,  
 and 7, and to be called and known by the name of For-  
 sythe's inspection. An inspection of flour, hemp, beef, Gallatin's,  
 pork, tobacco, cotton and cordage, in Warren county, at  
 the mouth of Ray's branch, on Barren river, on Galla-  
 tin's survey, to be called and known by the name of  
 Gallatin's inspection ; under the like rules and regula-  
 tions as is provided by law in respect to other inspections  
 of the like kind, in this commonwealth.

This act shall commence and be in force from and To commence.  
 after the passage thereof.

#### CHAPTER CCLVII.

*An ACT for the benefit of the Heirs of James Trimble,  
 deceased.*

Approved December 19, 1804.

This act appointed commissioners to sell lands for the payment of a large  
 debt due from the decedent to Marquis Calmes.

1804.

## CHAPTER CCLVIII.

*An ACT supplementary to an act erecting sundry Counties into Election Precincts.*

Approved December 19, 1804.

WHEREAS by an act of the present general assembly, several counties in this commonwealth have been divided into election precincts, and no time mentioned therein for the sheriffs to meet for the purpose of comparing the polls :

*Be it therefore enacted*, That in every such case now unprovided for, the sheriffs shall meet at the court-house of the county on the fifth day after the commencement of the election, and then and there proceed to ascertain the persons duly elected, as in other cases.

This act shall commence and be in force from and after the passage thereof.

## CHAPTER CCLIX.

*An ACT for the relief of the Sheriffs of Nicholas, Livingston, and Breckenridge Counties.*

Approved December 19, 1804.

The sheriffs of Nicholas and Breckenridge had, through mistake, overpaid what was due to the treasury. This act authorized them to draw it out ; and entitled the collector of Livingston to credit for a delinquent list which had not been returned in time.

## CHAPTER CCLX.

*An ACT authorising the Trustees of the Rittenhouse Academy, in Georgetown, to dispose of the Lands vested in them by Law for the use of said Academy.*

Approved December 19, 1804.

*BE it enacted by the general assembly*, That the present trustees of the Rittenhouse academy, in Georgetown, Scott county, and their successors, are hereby authorized and invested with power to dispose of the whole or any part of the lands appropriated to the use and benefit of said academy, by an act of assembly passed 22d December 1798, entitled "an act to establish and endow certain academies," in any manner they may think most advantageous to said academy, whether by sale, lease, or exchange, for the purpose of building houses, purchasing philosophical apparatus, or a library

### XIII. YEAR OF THE COMMONWEALTH.

245

for the use of said academy, and for any other purpose which will tend to the prosperity of said institution.

1804.

This act shall be in force from its passage.

#### CHAPTER CCLXI.

*An ACT providing for the Flooring the Room in the State-House occupied by the Public Printer.*

Approved December 19, 1804.

#### CHAPTER CCLXII.

*An ACT for the benefit of the Representatives of Edmund Thomas, deceased.*

Approved December 19, 1804.

This act gave them 400 dollars for as much of the transcript as was finished — he having died before it was completed.

#### CHAPTER CCLXIII.

*An ACT supplemental to and explanatory of an act entitled "an act giving an additional term to the Circuit Court of Fayette, and altering the Terms of other Circuit Courts."*

Approved December 19, 1804.

#### CHAPTER CCLXIV.

*An ACT for the appropriation of Money.*

Approved December 19, 1804.

The ordinary appropriation bill.

#### CHAPTER CCLXV.

*An ACT to amend the act concerning Public Roads and Tavern License.*

Approved December 19, 1804.

See the preface to Chap. 120, of Vol. I.

SECTION 1. *BE it enacted by the general assembly,* Clerks of county courts to furnish clerks of circuit courts with lists of the surveyors of roads. That the clerk of each county court shall, at least twenty days before the commencement of the circuit court, held in each county, make out a correct list of the names of all the surveyors of roads in his county, describing the road for which each is appointed, and deliver the

1804. same to the clerk of the circuit of his county, at least one day before the commencement of the said court, which list shall be laid before the grand jury at the succeeding court, in their retirement; and when any surveyor of a road shall be appointed, the said county court clerk shall, within ten days thereafter, make out two correct copies of the order of the county court appointing the said surveyor, and deliver them to the sheriff of the said county, who shall deliver one of them to the person so appointed within 15 days thereafter, and return the other to the clerk of the circuit court of his county, at or before the next circuit court, with an endorsement thereon, that he has delivered a true copy of the same to the person therein named, which shall be filed by the said circuit court clerk in his office, and shall be evidence to the court and grand jury that the person therein named has had legal notice of his appointment.

*Appointed*

County court clerk to make out list of tavern keepers, & deliver it to the clerk of the circuit court. At what time. To be laid before the grand jury. Penalty on failure.

Sec. 2. *And be it further enacted,* That the clerk of each county court shall make out a list of all the tavern keepers in his said county, who shall have taken out license according to law, with the dates of granting the same, and deliver the same to the clerk of the circuit court, at least one day before the said court shall meet, which shall be also filed by said clerk in his office; and it shall be his duty to lay the same before the grand jury for their information. Any clerk or sheriff failing in any of the duties hereby required, shall, without good cause shewn, be fined by the circuit court in any sum not exceeding twenty dollars; and all the services directed by this act to be performed, shall be considered as included in their *ex officio* services.

This act shall be in force from its passage.

## CHAPTER CCLXVI.

### *An ACT concerning the Criminal Law.*

Approved December 19, 1804.

*BE it enacted by the general assembly,* That it shall be the duty of the revisors of the criminal law to complete and finish the work conformable to the laws now in force in this state, and shall within five months deliver the same in neat and suitable order to the public printer for this commonwealth. And it shall be the du-

ty of the printer aforesaid, within five months after the delivery of the work, to print 1000 copies, agreeable to the laws now in force upon this subject, and deliver them to the secretary, who is hereby authorised and required to distribute them among the several persons entitled to receive the acts of assembly in this state: *Provided, however*, that no person shall receive more than one copy. And when the secretary of state shall have satisfactory proof made to him that the work has been completed and delivered agreeable to the requisitions of this act, he shall certify the same to the auditor, who shall thereupon issue a warrant in favor of the revisors for 200 dollars, in part payment thereof; and when the printer shall have completed the duty assigned to him by this act, the secretary shall certify the same to the auditor, who shall thereupon issue a warrant in favor of the printer for 300 dollars, in part payment thereof.

This act shall be in force from its passage.

1805.

---

November Session, 1805.

---

## CHAPTER CCLXVII.

*An ACT appointing Commissioners to fix the Seat of Justice in Greenup County, and for other purposes.*

Approved November 22, 1805.

The other purposes were, the repeal of the fourth section of the act of December 12, 1803, for the division of Mason county, and authorising the governor to appoint new commissioners, if those named in this act should fail to perform the duties enjoined, by the first Monday in August [then] next ensuing.

## CHAPTER CCLXVIII.

*An ACT fixing the place whereon to erect the Court-House and other Public Buildings in the County of Gallatin.*

Approved November 27, 1805.

WHEREAS it is represented to the present general assembly, that the place heretofore designated by law whereon to erect the court-house and other public

1805.

buildings in the county of Gallatin, is contrary to the wish of a majority of the citizens of the said county :

Sec. 1. *Be it therefore enacted*, That the court-house or seat of justice for the said county shall be fixed and established on in-lots No. 182, 183, 184, and 185, in the town of Port-William, in the said county, known and distinguished as such in the established plat of the said town, any law to the contrary notwithstanding.

Sec. 2. *And be it further enacted*, That it shall be the duty of the county court of said county, and they are hereby directed (so soon as the proprietors of the in-lots No. 182, 183, 184, and 185, in the town of Port-William, shall make or cause to be made a good and sufficient deed or deeds in fee simple to the said lots and premises, to the county court of the said county, or to such other person or persons as the said court may direct, ~~in trust~~ for the use and benefit of the said county) to proceed as soon as may be to cause the necessary public buildings to be erected on the aforesaid lot or lots: *Provided, however*, that until the said public buildings shall be prepared for their reception, the county and circuit courts of the said county of Gallatin shall have power to meet and hold courts at the place heretofore used for that purpose in the said town of Port-William.

This act shall commence and be in force from and after the passage.

#### CHAPTER CCLXIX.

*An ACT to amend an act entitled "an act to revive and reduce into one the several acts concerning the Town of Washington, in the County of Mason."*

Approved November 27, 1805.

WHEREAS it is represented to the general assembly, that the inhabitants of Washington, in Mason county, failed to hold an election on the first Saturday in April last, to elect trustees of the said town, agreeable to law, in consequence of which, the power to hold an election ceased, under the present act of assembly : for remedy whereof,

*Be it enacted by the general assembly*, That the power of the late trustees is hereby revived until the first Saturday in April next, and they are hereby authorised to exercise all the powers given to trustees of the said



town ; when a new election shall be held on the said first Saturday in April next, and on the first Saturday in April in every year after, under such regulations as are prescribed by law, except that such election may be held under the superintendence of any two of the trustees then in office, ten days notice having been given by advertising the time and place of such election at the most public places in the said town. And if from any cause an election for trustees shall not be held in any year, the county court for Mason county shall have full power and authority to appoint trustees, qualified as directed by law, to continue in office until the day herein directed for the next election of trustees for said town.

1805.

This act shall be in force from its passage.

---

#### CHAPTER CCLXX.

*An ACT for keeping open the Navigation of Red River.*

Approved December 4, 1805.

SECTION 1. *BE it enacted by the general assembly,* That Red river, from its junction with the Kentucky to Clark's and Smith's iron-works thereon, shall be kept open for the navigation of boats and other vessels ; and if any person or persons whatsoever, shall put any fish trap, or put any obstruction therein, except as is hereafter mentioned, such person or persons shall forfeit and pay for every twenty-four hours such fish trap or other obstruction shall continue in the said river, the sum of four dollars, to be recovered before any justice of the peace, or circuit court, as each may have cognizance of the sum claimed ; one half to go to the informer, and the other half towards lessening the county levy ; and every such obstruction shall be considered as a nuisance, and may be removed as such.

Sec. 2. And that if any person or persons should hereafter be desirous of erecting any mill or mills, or other water-works, on that part of the said river before described, he, she or they may be permitted to do so : *Provided*, that the dam to be erected shall be provided with sufficient locks, so as not to impede or obstruct the navigation aforesaid.

This act shall commence and be in force from and after the passage thereof.

## NOVEMBER SESSION,

1805.

## CHAPTER CCLXXI.

*An ACT adding the Counties of Nicholas and Floyd to the Fleming Senatorial District.*

Approved December 4, 1805.

*BE it enacted by the general assembly,* That from and after the passage of this act the counties of Nicholas and Floyd shall be annexed to and compose a part of the senatorial district called the Fleming district, any law to the contrary notwithstanding.

This act shall commence and be in force from and after the passage thereof.

## CHAPTER CCLXXII.

*An ACT appropriating Money to the Public Printer.*

Approved December 11, 1805.

He was allowed 472 dollars 50 cents immediate advance, in part payment of the sum which would be due on a final settlement.

## CHAPTER CCLXXIII.

*An ACT to amend the several acts concerning the Town of Port-William.*

Approved December 16, 1805.

WHEREAS by an act of the general assembly, passed in the year 1794, the town of Port-William was established, and a power given to the then trustees to convey lots to the purchasers, but it was omitted to extend that power to their successors, since which the said trustees resigned their said offices, and successors were appointed, who in sundry cases made deeds, which by many are deemed ineffectual, as being made without authority, and in many other cases the purchasers have not yet received deeds: for remedy whereof,

*Be it enacted by the general assembly,* That the present acting trustees of the town of Port-William, and their successors, shall be, and they are hereby vested with power to make deeds of conveyance to purchasers for all lots in said town which are conveyed, and where deeds of conveyance have been executed by previous trustees, which are ineffectual or doubtful for want of the trustees holding a special power to make deeds, the present acting trustees, or their successors, may by deed

*E Un-  
conveyed*

XIV. YEAR OF THE COMMONWEALTH.

251

or deeds duly executed confirm the same, where they shall find it right so to do.

1805.

This act shall be in force from and after its passage.

CHAPTER CCLXXIV.

*An ACT to amend the act entitled "an act adding a small part of Cumberland to Adair County."*

Approved December 16, 1805.

WHEREAS by the law of the last session for adding a part of Cumberland county to Adair, more of Cumberland has been taken off said county than was intended, by running a due west course from the mouth of Blackfish creek on Cumberland river, instead of running a north course, by reason of which, a considerable injury is done to the county of Cumberland, without advantage to the county of Adair: for remedy whereof,

*more of the County*

*Be it enacted by the general assembly,* That so much of the said recited act as directs a line to run from the mouth of Blackfish a due west course, shall be, and the same is hereby repealed; and that the true dividing line between the said counties, shall be as follows:—beginning at the mouth of Blackfish creek, on Cumberland river, and to run a due north course to the old line between said counties, thence with the said old line westwardly, to the line of Barren county.

This act shall be in force from its passage.

CHAPTER CCLXXV.

*An ACT to authorise the Lexington Presbyterian Congregation to sell a certain Lot of Ground in said Town.*

Approved December 16, 1805.

The legislature of Virginia, in the year 1789, had authorised them to purchase some land in Lexington, which they had done, and erected a meeting-house on it; but it having become unfit for a place of devotion, this act authorised the trustees to sell it, and purchase another.

CHAPTER CCLXXVI.

*An ACT to amend the several acts concerning the Town of Frankfort.*

Approved December 19, 1805.

SECTION 1. *BE it enacted by the general assembly,* That the trustees of the town of Frankfort, and their

*Trustees authorised to levy an additional tax.*

1805.  
and for what  
purpose.

successors in office, in addition to the present cash taxation, shall be vested with power to levy a sum not exceeding three hundred dollars, for the purpose of repairing the streets, and the like; and in consideration thereof, the citizens and titheables are hereby exonerated from compulsion to work on the streets aforesaid; yet each citizen and titheable shall be privileged to discharge his proportion of said tax in labor, at 75 cents per day for himself and tools; but if any citizen or titheable shall neglect or refuse well and truly to discharge the same in labor, when required, and be reported delinquent, the trustees shall examine the fact, and if he shall be found delinquent, they may make his proportion a cash demand, and proceed to have it collected accordingly.

To appoint a  
collector.

Sec. 2. For the purpose of collecting this and all other taxes of said town, the said trustees, and their successors, shall have power to appoint a collector or collectors, and stipulate the compensation for collecting.

His duty and  
power.

Sec. 3. The said collector shall, under such regulations as the said trustees shall direct, proceed to collect the taxes, with a power to make distress, if authorised by the trustees; but nothing in this act shall be so construed as to authorise a sale of real estate, or of making distress beyond the limits of said town.

Tax on lots  
owned by non-  
residents, how  
to be collected.

Sec. 4. Where lots are owned by persons who do not reside thereon, distress for the taxes thereof may be made of the personal property of any person resident thereon, or of such property as may be thereon with the privity of the owner of the property; saving, however, that where lots are used for public purposes, as taverns, shops, and the like, such property as may be there, in the way of the trade used thereon, shall not be liable to distress for the taxes.

Proceedings a-  
gainst a town  
collector.

Sec. 5. Where a town collector, as aforesaid, shall have given bond, with or without security, for the performance of his duties as collector, and shall have in any wise failed therein, and suit shall be brought thereon, it shall be the duty of the sheriff or officer executing the writ in such case, to endorse thereon the day or days on which he executed it; and where it shall appear from such endorsement that the writ has been executed ten days before the return day thereof, the declaration

may be filed in court, and judgment may be rendered at the return term. And where such collector and his securities, or either of them, shall appear, they may join issue, otherwise an interlocutory judgment may be entered, and a writ of enquiry awarded, which may be executed at that or any subsequent term, and judgment entered accordingly, which judgment shall have the benefits of the acts of *jeofails*, as in other cases are applied: *Provided, however*, that when this short mode of procedure is pursued, it shall discharge any appearance bail against whose principal it shall be had: *And provided also*, that nothing herein contained shall prevent the plaintiffs from proceeding in the ordinary way, where they shall deem it expedient.

1805.

Sec. 6. And where any collector shall be found delinquent, he shall be liable to pay at the rate of 15 per centum per annum on the money unaccounted for by him, from the time it should have been paid until the time of trial.

The penalty to which he is subjected.

Sec. 7. The privilege of giving a forthcoming bond or a replevin bond, or of the sale of property on a credit, shall not extend to delinquent collectors, or their securities, against whom judgment shall be entered under the provisions of this act; but in such cases the clerk shall endorse on the execution, "No security to be taken," which shall be obeyed accordingly.

Sec. 8. The said trustees and their successors shall have power to make all rules necessary to carry into effect this and all other acts of the legislature which relate to the said town, and to make rules for the good order of the place, provided such rules do not violate any of the laws of this commonwealth.

Further power of the trustees.

This act shall be in force from its passage.

To commence.

#### CHAPTER CCLXXVII.

*An ACT to repeal the several acts for the relief of sundry Citizens of Mason County, and others.*

Approved December 19, 1805.

*BE it enacted by the general assembly*, That an act for the relief of sundry citizens of Mason county, and others, passed in the year 1800, also an act passed in the year 1801, to amend an act for the relief of the citizens of Mason county, and others, shall be, and the

1805.

same are hereby repealed ; any law to the contrary notwithstanding.

This act shall be in force from its passage.

~~~~~

CHAPTER CCLXXVIII.

*An ACT to amend the act entitled " an act to reduce into one the several acts concerning Bardstown, in Nelson County."*

Approved December 19, 1805.

WHEREAS by an act passed on the 15th day of December, 1802, the 16th section of the said act required that the then existing trustees of Bardstown, in Nelson county, should deliver up all papers, records and money at that time in their possession, to the trustees that should be elected under the said recited act : and whereas it is represented to the present general assembly, that the present trustees elected under the said recited act, have doubts whether they have power to make conveyances to lots as the original trustees possessed :

Sec. 1. *Be it enacted by the general assembly, That* the trustees now elected, or that may be hereafter elected under the said recited act, shall have full power and authority to make any conveyance or conveyances that the original trustees had or could have had under any law respecting the said town : *Provided, however,* that nothing in this act shall be so construed as to affect any title or titles heretofore made by former and legal trustees, or by the proprietor, or in any manner to interfere with or affect equitable titles to lots in said town.

Sec. 2. *Be it further enacted, That* the trustees, at all times hereafter, shall have power and authority to make any by-laws for the regulation of the market, and for keeping good order in society within the limits of their jurisdiction, as to them may seem right, and shall not be contrary to the laws of this state, nor the laws of the United States. And for the better enabling the trustees to carry this act into effect, they shall have power and authority to raise by taxation, as is now by law directed, a sum in each year hereafter, not exceeding one hundred dollars, in addition to the amount heretofore by law allowed to be taxed on said town.

This act shall be in force from the passage thereof.

## CHAPTER CCLXXIX.

1805.

*An ACT to amend the act establishing the Franklin Academy.*

Approved December 19, 1805.

*BE it enacted by the general assembly, That* Bazil Duke, John Machir, Benjamin Bayless, John Johnson, Thomas Marshall, Baldwin B. Smith, David Daviss, Francis Taylor, and William Heddleston, are hereby appointed trustees of the Franklin Academy, in the county of Mason, in the room of the trustees appointed by an act passed the 15th day of December, 1795, entitled "an act establishing the Franklin academy," whose powers have ceased in consequence of their failing to hold stated meetings, as the said recited act required; and the trustees hereby appointed, or a majority of them, shall have and exercise all the powers which the aforesaid trustees possessed, under the aforesaid act.

This act shall be in force from its passage.

## CHAPTER CCLXXX.

*An ACT erecting an Election Precinct in Floyd, Mason, and Ohio Counties.*

Approved December 19, 1805.

**WHEREAS** it is represented to the general assembly, that great inconveniencies arise to a part of the citizens of Floyd, Mason, and Ohio counties, owing to their remoteness from the present places of holding elections in said counties: for remedy whereof,

**Sec. 1.** *Be it enacted by the general assembly, That* all that part of Floyd county that is contained in the following boundary, viz: beginning at the mouth of Boon's fork, from thence a direct line to Lazarus Damril's, from thence to the mouth of Brushy fork, on John's creek, from thence to the Tug fork, at the mouth of Pond creek, at the state line, with said line to the thirty-six mile tree on Sandy, from thence to the main fork of Kentucky, and down the same to the beginning, be, and the same is hereby made an election precinct; and elections to be held in the said precinct, shall be held at the house of James Ratliff, on the Louisa fork of Sandy, to be called and known by the name of Sandy election precinct. And that all that part of Ohio county included within these bounds and lines, to wit: beginning at the

Preamble.

Election precincts erected in Floyd,

Ohio,

1805. { mouth of Cany creek, a branch of Rough creek, thence up with the meanders of Cany to the Long fork thereof, thence with the Long fork of said creek to the head thereof, thence crossing a dividing ridge in a direct line to the head of Little Ready, thence down Little Ready to Green river, thence up Green river, with the meanders thereof, to the county line, thence with the said line to Rough creek, and thence down Rough creek, with its meanders, to the beginning, be, and the same is hereby made an election precinct; and it shall be the duty of the county court of said county to appoint some convenient place within said precinct, for the purpose of holding all future elections.

Mason.

Sec. 2. *And be it further enacted,* That an election precinct shall be erected in the county of Mason, within the following bounds: beginning at the mouth of Quick's run, running up the same to the head, thence with the dividing ridge between the waters of Cabin creek and Salt Lick creek, to the head of Kennakanick, thence a direct line to the Fleming line, thence up the said line to the corner of Greenup, thence with the Greenup line to the Ohio, down the same to the beginning; to be called the Salt Lick precinct; and elections therein, shall be held at the town of Vanceburg; and the county court shall at their June or July term, appoint the officers to superintend the same; and the sheriff shall meet as heretofore directed, with a statement of the number of votes.

Elections there-  
in, how to be  
governed.

Sec. 3. *And be it further enacted,* That all elections held in said precincts, shall be governed by the same laws, and regulated by the same rules that those elections may be which are held at the court-house in the said counties; and the sheriffs of said counties, on a fair addition and comparison of the polls in said counties, shall certify and make return of the person or persons elected as directed by law.

To commence. This act shall be in force from its passage.

#### CHAPTER CCLXXXI.

*An ACT making provision for George Murrell and Men who served under him.*

Approved December 19, 1805.

WHEREAS it is represented to the general assembly, that George Murrell served in March, May, and



August, in the year 1787, making ninety days, as a lieutenant in guarding the frontiers of Lincoln county, under the orders of the colonel of the county; and that he and the men who served under him, never received any compensation for their services, although the said lieutenant made out his pay-roll, duly sworn to, and certified by the colonel, and gave the same to the commissioners appointed to settle and adjust; but who, through mistake, or an omission of their clerk, failed to order and certify the same: and as it is but just, and as no improper neglect can be attached to the said Murrell and men, that they should be paid: therefore,

1805.

*BE it enacted by the general assembly,* That the auditor of public accounts shall issue warrants to the said George Murrell and men who served under him, during the tours, or any part thereof aforesaid, or to their respective heirs or representatives, for the sum of five shillings and six pence half penny per day, to the said Murrell, and at the rate of one pound thirteen shillings per month, to each of the men who served as aforesaid, under the said Murrell. And that six per centum per annum, interest, shall be allowed thereon, respectively, from the 21st day of December, 1799. And the auditor is required to take charge of, and preserve the said pay-rolls, that he may know the persons who served as aforesaid, by reference to their names, and the time that each served. The warrants for said services shall specify the consideration, and be payable only in discharge of instalments due for lands granted to settlers south of Green river.

This act shall be in force from and after the passage thereof.

#### CHAPTER CCLXXXII.

*An ACT to amend in part an act allowing Mills to be built on Main Licking, under certain restrictions.*

Approved December 19, 1805.

WHEREAS it is represented to the general assembly, that it is expedient and proper to extend the privilege of building mills on main Licking river, above the mills of George M. Bedinger, already built on the same, and that great advantages will result therefrom to the community at large: therefore,

1805. *Sec. 1. Be it enacted by the general assembly, That*  
 How persons may proceed to erect mills &c.  
 it shall and may be lawful for any person or persons desiring to build mills on main Licking river, above the mills of George M. Bedinger, and owning lands on one or both sides of the said river, and wishing to erect dams across the same, to proceed as is directed and prescribed by an act entitled "an act to reduce into one the several acts concerning mill-dams and other obstructions in water courses:" *Provided, however,* that no dam shall be erected across the said river, higher than four and a half feet; and that the jury that may be directed by the county court for the condemnation of any such mill-seat, shall describe in their report the manner in which the slopes or openings for the passage of boats and fish shall be fixed, for which purpose the clerk shall give directions in his writ directed to the sheriff to that effect.

*Sec. 2. And be it further enacted,* That upon the report of the jury aforesaid, if it be in favor of the petitioner or petitioners, that he, she or they shall enter into bond with one or more sufficient securities, payable to the governor for the time being and his successors, in the penalty of three thousand dollars, conditioned to do and perform whatever shall be required by the jury aforesaid, for the purpose of securing the navigation of said river unimpaired, which bond may be sued on by any person injured, and shall not be void on the recovery, but may be put in suit from time to time by any person who may be injured by a breach of the condition thereof: *Provided always,* that if at any time hereafter it shall be found that any mill-dam erected under authority of this act, is injurious to the navigation of the said river, it shall and may be lawful for the county court of that county wherein it is situated, to cause the same to be abated as a nuisance, or to require the owner thereof to make such alterations in his dam as will prevent obstruction to the navigation of the said river in future.

*So much of every act as comes within the purview of this act, shall be, and is hereby repealed.*

*This act shall commence and be in force from and after the passage thereof.*

*Provido as to height of their dams.*

*Petitioners to give bond.*

*Penalty & condition thereof.*

*Which may be sued on.*

*Provido as to the navigation.*

*Repealing clause.*

*To commence.*

XIV. YEAR OF THE COMMONWEALTH.

259

CHAPTER CCLXXXIII.

1805.

*An ACT for the benefit of James Bailey.*

Approved December 19, 1805.

This act allowed him 45 dollars for 45 days services as marker for the commissioners appointed to view a road from Danville to Tellico.

CHAPTER CCLXXXIV.

*An ACT to repeal in part the act erecting sundry Counties into Election Precincts.*

Approved December 19, 1805.

BE it enacted by the general assembly, That the second section of the act erecting sundry counties into election precincts, passed December the 6th, 1804, shall be, and the same is hereby repealed.

This act shall be in force from the passage thereof.

CHAPTER CCLXXXV.

*An ACT to amend the act incorporating the Ohio Canal Company.*

Approved December 20, 1805.

WHEREAS it is represented to the present general assembly, that the opening a canal at the falls of the river Ohio, will be of great public utility, interesting to the commerce and agriculture of this state, and the western country generally, and many persons are willing to subscribe large sums of money to effect that great national object, and it being just and proper that they, their heirs and assigns, should be empowered to receive, by way of toll, satisfaction for the money by them advanced in carrying the work into effect : and whereas it is also represented that the law of 1804, incorporating the Ohio Canal Company, is defective in many of its important provisions, and that many persons have subscribed large sums of money in the books opened for subscriptions under the directions of the before recited act : therefore,

Preamble.

Sec. 1. *Be it enacted by the general assembly, That all persons who have heretofore subscribed under the before recited act, shall be considered as subscribers under this act, unless within three months after its passage, they shall declare, personally, or by letter, to the*

Subscribers under former act to be subscribers under this.

1805.

president and directors, that they wish not to be so considered.

Company in-  
corporated.

Name,

Sec. 2. *Be it further enacted*, That James Berthoud, Thomas Prather, George Wilson, Peter B. Ormsby, James Hunter, John Bradford, Alexander Parker, John Jordan, jun. Adam Steele, Wingfield Bullock, and Worden Pope, and the present and future subscribers, their successors and assigns, be, and they are hereby erected into a body corporate and politic, by the name of the Ohio Canal Company, and are hereby ordained, constituted and declared to be forever hereafter, a body politic and corporate, in fact and in name; they and their successors shall and may have continual succession, and shall be persons in law capable of suing and being sued, pleading and being impleaded, answering and being answered unto, defending and being defended, in all courts and places whatsoever, in all manner of actions, suits, complaints, matters and causes whatsoever; and that they and their successors may have a common seal, and make and alter the same at their pleasure; and also that their successors, by the same name and style, shall be in law capable of purchasing, holding, and conveying any estate, real or personal, for the use of said corporation.

Capital & num-  
ber of shares,

Sec. 3. *And be it further enacted*, That the capital stock of said company shall consist of 10,000 shares of 50 dollars each, and that subscriptions to the said stock may be received by such person and persons, and at such places within and without this state, and under such regulations as the said James Berthoud, Thomas Prather, George Wilson, Peter B. Ormsby, James Hunter, John Bradford, Alexander Parker, John Jordan, jun. Adam Steele, Wingfield Bullock, and Worden Pope, directors for the time being, or a majority of them, shall prescribe and ordain; and the said directors, or a majority of them, shall meet on the first Monday in February next, at such place as they shall appoint for that purpose, and elect one of their own body to be their president.

Directors, when  
to meet.

Sec. 4. *And be further enacted*, That the stock, property, and concerns of the said company, shall, until the first Monday in April 1807, be conducted and managed by the directors aforesaid, or a majority of them; and after that day the same shall be conducted and ma-

naged by twenty-four directors, any seven or more of whom shall constitute a board, being stockholders, who shall hold their office for one year from the said first Monday in April; and the said directors shall be elected by ballot, annually, on the first Monday in April, at such hour of the day, and at such place in the town of Louisville, or Shippingport, as the said president and directors, or a majority of them, for the time being, shall appoint; and public notice shall be given by the said directors, not less than thirty days previous to the time and place of holding said election, by an advertisement to be inserted in the newspaper of the public printer, and in some one or more newspapers printed in the state of Kentucky; and the said election shall be made by such of the stockholders as shall attend for that purpose, or by proxy, each shareholder having one vote for every share, as far as ten shares, and one vote for every five shares above ten; and the directors so to be chosen, shall at their first meeting elect by ballot one of their number to be their president; and that the said president and directors hereafter to be chosen, a majority of whom being assembled, shall constitute a board, and shall have power to appoint the time and place of all meetings for the dispatch of business, and to appoint such superintendants, engineers, treasurer, clerks, and other officers, agents and servants, and exact from them such security for their performance of the duties assigned them, as the said directors, or a majority of them, shall judge requisite, proper and necessary for carrying into effect the purpose of this act, and to agree for and settle their respective wages and allowances; and to pass and sign their accounts, and also to make and establish rules of proceedings, and to make such by-laws, rules, and regulations, not inconsistent with the constitution and laws of the United States, or of this state, as may appear to them most conducive to the ends proposed by this act, and to conduct all other business and concerns of the said company: *Provided, however,* that the said company shall not be permitted to issue bills of credit payable to any person or bearer, nor shall they be permitted to exercise the privilege of banking in any respect whatever.

Sec. 5. *And be it further enacted,* That in case of the death, resignation, or refusal to act, of any director or directors, chosen as aforesaid, it shall and may be law-

1805.

Election of new directors, when to take place.


To be advertised.

By whom to be made.

Directors' duty and power.

Provido.

Vacancies of directors, how to be filled.

1805.  ful for the remaining directors, upon public notice being given in any gazette published in Louisville, or the newspaper of the public printer, at least twenty days for that purpose, to proceed to elect a director or directors to fill such vacancy or vacancies.

And of president. Sec. 6. *And be it further enacted,* That in case of the death, resignation, or refusal to act, of the president, it shall and may be lawful for the directors to choose a president *pro tempore*, and for the meeting only for which he shall be chosen, and may, at any of their general meetings, remove their president, or any of their directors, and appoint others for and during the remainder of the term for which such person or persons were at first to have acted.

Officers to be sworn. Sec. 7. *And be it further enacted,* That every president, director and treasurer, before he acts as such, shall take an oath or affirmation for the due execution of his office.

Subscriptions, how to be made and paid. Sec. 8. *And be it further enacted,* That the subscription for the shares in said company, shall be made personally, or by power of attorney, and shall be paid in current money of the United States; and whenever the whole amount of the capital aforesaid is subscribed for, the president and directors, or a majority of them, shall return a just and true list of the subscribers, of the sums subscribed by each, under their hands and seals, to the clerk of the county court of Jefferson county, to be there recorded.

Provisions as to future meetings. Sec. 9. *And be it further enacted,* That after the said first meeting of the subscribers at Louisville, or Shippingport, as aforesaid, the attendance of proprietors, in person or by proxy, having two thousand shares at least, shall be necessary to constitute a meeting of the proprietors, on the first Monday in April, 1807, and on the same day in every year thereafter, at such convenient place as shall be from time to time appointed for the said general meeting; but if a sufficient number should not attend on that day, the proprietors who do attend, may adjourn the meeting from day to day, till a general meeting of the proprietors shall be had, which may be continued from day to day, till the business of the company is finished: to which meeting, the president and directors shall make reports, and render distinct and just accounts of all proceedings, and on finding them

President & directors to make annual reports.

justly and fairly stated, the proprietors then present, or a majority of them, shall give a certificate thereof, a duplicate of which shall be entered in the company's books : and at such yearly meetings, after leaving in the hands of the treasurer such sums as the proprietors, or a majority of them, may judge necessary for repairs and contingent charges, an equal dividend of all the nett proceeds arising from the tolls herein granted, shall be ordered and made to and among all the proprietors of the said company, in proportion to their several shares ; and upon any emergency in the interval between the said yearly meetings, the said president, or a majority of the said directors, may appoint a general meeting of the proprietors of the said company, at any convenient place, giving at least one month's notice in the newspaper of the public printer ; which meeting may be adjourned and continued as aforesaid.

1805.

Called meetings  
to be advertised.

Sec. 10. *Be it further enacted*, That the governor of this commonwealth be, and he is hereby authorised and requested to subscribe for 1000 shares in said company ; and the auditor of public accounts is hereby directed, on the application of the president and directors, or their order, to issue his warrant on the treasurer for the proportion of said shares, which the said president and directors may require, as by this act before directed. *Provided, however*, that the amount payable by the state for the said shares, shall not exceed 10,000 dollars, per year, payable on the 20th day of December, annually, unless by the assent of the general assembly ; and the treasurer shall pay the said sums out of any money in the treasury.

State subscrip-  
tion,

Provido;

Sec. 11. *And be it further enacted*, That 1000 other shares in the said company shall be reserved for the future disposition of the general assembly of Kentucky. And the said governor for the time being shall have a right to vote according to such shares, in person, or by proxy duly authorised by commission, and under his hand and seal, who shall receive the proportion of the tolls and other profits aforesaid, which shall from time to time become due to this state for the shares aforesaid.

Shares to be re-  
served for the  
state.The governor to  
vote.

Sec. 12. *And be it further enacted*, That the tolls or other profits which may from time to time be received on the shares subscribed for on the part of this state,

Tolls, when to  
be paid to the  
state.

1805.

Provide.

shall be paid annually, or half yearly, as the same may be received, or within one month thereafter, into the public treasury. *Provided, however,* that until three thousand shares shall be subscribed, either by some state, the United States, or individuals, no money shall be drawn from the treasury of this state, on account of the sum which the governor is authorised to subscribe on the part of this commonwealth.

Company may  
take stone, &c.  
from adjoining  
lands.

Sec. 13. *And be it further enacted,* That it shall be lawful for the said company hereby incorporated, and for all and every person or persons employed by or under them, for the purposes contemplated by this act, from time to time to enter upon any lands contiguous or near to the said canal and other water-works, or the places which may be selected for or intended to be used or employed for the same, with carts, waggons, and other carriages, and beasts of draught and burthen, and all necessary tools and implements, both for executing and making, and for altering and repairing the said works, or any of them; and to take and carry away any stone, clay, gravel, sand or earth from the same, for the making, altering or repairing of the said works, or any of them, subject always to the making of compensation for all damages thereby occasioned, either by agreement of the parties, or in the mode herein directed in relation to the condemnation of land.

Regulations as  
to bridges.

Sec. 14. *And be it further enacted,* That whenever the said canal shall cross any public or private laid out road or highway, or shall divide the grounds of any person or persons, into several parts, so as to require a bridge across the same, the said president and directors shall cause a bridge, fit for the passage of waggons and carts, to be built and forever thereafter maintained and kept in repair, at all and every place and places so divided, at the proper cost and charges of the said company. But nothing herein contained shall prevent any person from erecting and keeping in repair any foot or other bridge across the said canal, at his or her own expense, when the same shall pass through his or her ground. *Provided,* that the same shall be of such height above the water, as shall be usual in the bridges erected by the company: *And provided also,* that such foot or other bridges to be erected by the owner or owners of such ground, shall not interfere with any of the locks, build-

Provide.



ings, passage of vessels, boats, rafts, or other works of the company.

1805.

Sec. 15. *And be it further enacted*, That the said president and directors so elected, and their successors, or a majority of them assembled, shall have full power and authority to agree with any person or persons on behalf of said company, to cut such canal on the Kentucky side of the said river, and erect such locks, and to perform such works as they shall judge necessary for opening, improving and extending the navigation of the said river, and for other purposes authorised by this law; and if the said president and directors shall deem it proper and expedient to carry on the same from place to place, and from time to time, and upon such terms, and in such manner as they shall think fit, and out of the money arising from the subscriptions and tolls, and other aids herein after given, to pay for the same: *Provided always*, that the treasurer shall give bond, in such penalty and with such security as said president and directors, or a majority of them, shall direct, for the true and faithful discharge of the trust reposed in him, and that no officer in the said company shall have any vote in the settlement or passing of his accounts.

President & directors to contract for cutting canal, &c.

Treasurer to give bond, &c.

No officer to vote on his own account.

Sec. 16. *And be it further enacted*, That it shall be lawful for the said company to receive from the United States, or from any state, or from any body corporate or politic, donations of lands, money, or other chattels, for the use of the said company, and to receive for the same use and purpose, voluntary subscriptions and donations from any individual or individuals, who may be disposed to encourage and promote the objects of this act. And it shall and may be lawful for the said company, in case of refusal or neglect of payment, in the name of the said company, to sue for and recover of all such subscribers, their heirs, executors or administrators, the sums by them respectively subscribed, by action of debt or upon the case, in any court of record having competent jurisdiction.

Company may receive donations, &c.

Power of company to recover debts.

Sec. 17. *And be it further enacted*, That it shall be lawful for the United States to subscribe for any number of shares in said company not exceeding 60,000 dollars, and that it shall be lawful for the state of Pennsylvania to subscribe for any number of shares not exceeding 30,000 dollars; Virginia, not exceeding 30,000

Subscriptions by the United States, &c.

1805. dollars ; Maryland, not exceeding 20,000 dollars ; New-York, not exceeding 20,000 dollars ; Ohio, not exceeding 20,000 dollars.

Sec. 18. *And be it further enacted,* That the said president and directors, and their successors, or a majority of them, shall have full power and authority, in their discretion, from time to time, as money shall be wanted, to make and sign orders for that purpose, and direct at what time, in what manner, and in what proportion the proprietors shall advance and pay off the sums subscribed, which orders shall be advertised at least two months in the paper of the public printer ; and they are hereby authorised and empowered to demand and receive of the several proprietors, from time to time, the sums of money so ordered to be advanced, for carrying on and executing, repairing and keeping in order the said works, until the sums subscribed shall be fully paid, and to order the said sums to be deposited into the hands of the treasurer, to be by him disbursed and paid out, as the said president and directors, or a majority of them, shall order and direct ; and if any of the said subscribers shall refuse or neglect to pay their said proportions within one month after the same so ordered and advertised aforesaid, the said president and directors, or a majority of them, may have sold at auction, and transfer to the purchaser, the share or shares of such subscriber so refusing or neglecting payment, giving at least two months notice of the time and place of sale, in the paper of the public printer ; and after retaining the sum due, and charges of the sale, out of the money produced thereby, they shall refund and pay the overplus, if any, to the former owner, upon demand ; and if such sales shall not produce the full sum ordered and directed to be advanced as aforesaid, with the incidental charges, the said president and directors, or a majority of them, may, in the name of the company, sue for and recover the balance, by action of debt or on the case, in any court of record having competent jurisdiction ; and the said purchaser or purchasers shall be subject to the same rules and regulations, as if the same sale and transfer had been made by the original proprietor.

Sec. 19. *And be it further enacted,* That in consideration of the expenses the said proprietors shall be at in opening the said canal, and improving and extending the

Power of the president, &c. to direct payment.

Such orders to be advertised.

Provisions when subscribers shall refuse to pay.

# XIV. YEAR OF THE COMMONWEALTH.

267

navigation of the said river, and in keeping the said canal and works in repair, the said works and canal shall be, and the same are hereby vested in the said proprietors, their heirs and assigns, forever, in proportion to their respective shares, and the same shall be real estate, and be forever exempt from the payment of any tax, imposition or assessment, whatever; and it shall and may be lawful for the said president and directors, at all times, forever hereafter, to demand and receive, at such place or places on the said canal, as they shall hereafter judge and determine to be most convenient, for all vessels, boats, merchandise and commodities conveyed through the whole extent of the said canal, according to the following tables and rates, to wit:

1805.

	D. C.	Tolls.
For each ship or other sea vessel, above 100 and not exceeding 400 tons burthen, 12 cents per ton.		
Do. above 90 and not exceeding 100 tons, -	11	75
Do. above 80 and not exceeding 90 tons, -	11	25
Do. above 70 and not exceeding 80 tons, -	10	50
Do. above 60 and not exceeding 70 tons, -	9	75
Do. above 50 and not exceeding 60 tons, -	9	
Do. above 40 and not exceeding 50 tons, -	8	
Do. above 30 and not exceeding 40 tons, -	7	50
Do. above 20 and not exceeding 30 tons, -	7	
Do. all not exceeding 20 tons, -	6	
For each boat, except ferry boats, not more than 14 feet wide and 30 feet long, -	3	
For each boat not more than 14 feet wide and 45 feet long, -	4	
For each boat not more than 14 feet wide and 60 feet long, -	5	
And for every foot over and above 14 feet wide or 60 feet long, -	9	
For each barge, batteaux, perogue or canoe, not more than 35 feet long, -	2	
For each barge, batteaux, perogue or canoe, not more than 45 feet long, -	3	
For each barge, batteaux, perogue or canoe, not more than 60 feet long, -	4	
And for every foot over and above 60 feet long, -	9	
For each hundred of pipe or hogshead stave, or pipe or hogshead, if floated on a raft, -	4	

1805.	For each hundred feet of plank or scantling, if floated on a raft,	4
	For each hundred cubit feet of other timber, if floated on a raft,	9

And that the said rates, under the limitations aforesaid, shall be collected at such places as the president and directors of the said company, or a majority of them, may, from time to time, determine, and that the said tolls be rated and paid in current money of the United States.

Power of collector to stop & distrain vessels refusing to pay.

Sec. 20. *And be it further enacted*, That the collector of tolls, duly authorised and appointed by the president and directors of the said corporation, may stop and detain all vessels, boats and rafts, using the canal, until the owner, or commander, or supercargo of the same shall pay the toll, so as aforesaid fixed, or may distrain the said vessel, boat or rafts, or part of the cargo therein contained, sufficient, by the appraisement of two disinterested persons, to satisfy the same; which distress shall be kept by the collector of the tolls taking the same, for the space of eight days, and not being redeemed, shall afterwards be sold at public vendue in the town of Louisville or Shippingport, to the highest bidder, in the same manner and form as goods distrained for rent are by law sold, rendering the surplus, on demand, if any there be, after the payment of the said toll and costs of distress and sale, to the owner or owners thereof.

And whereas it is necessary for making the said canal, locks and other works, that provision should be made for condemning a quantity of land for that purpose:

Provisions as to the condemnation of land.

Sec. 21. *Be it therefore enacted*, That it shall and may be lawful for the president and directors, or a majority of them, to agree with the owner or owners of any land through which the canal is intended to pass, for the purchase thereof, and in case of disagreement, or in case the owner or owners thereof shall be *feme covert*, under age, *non compos*, or out of the state, on application to any two justices of the peace of the county in which such lands shall lie, the said justices shall issue their warrant, under their hands and seals, to the sheriff of their county, directing him to summon a jury of twenty-four inhabitants of his county, of property and reputation, not related to the parties, nor in any manner

1805.

interested, to meet on the land, to be valued on a day to be expressed in the warrant, not less than ten nor more than twenty days thereafter, and the sheriff upon receiving the said warrant, shall forthwith summon said jury, and when met, shall administer an oath or affirmation to every jurymen that shall appear, that he will faithfully, justly, and impartially value the said land, not exceeding one hundred acres, and all damages the owner thereof shall sustain by cutting through such land, according to the best of his skill and judgment, and that in such valuation he will not spare any person for favor or affection, or any person grieve, for hatred, malice or ill will, and the inquisition thereupon taken, shall be signed by the sheriff, and some twelve or more of the jury, and returned by the sheriff to the clerk of his county, to be by him recorded; and upon every such valuation the jury is hereby directed to describe and ascertain the metes and bounds of the lands by them valued, and their valuation shall be conclusive on all persons, and shall be paid by such president and directors to the owner or owners of the land, or his or their legal representatives, and on payment or tender thereof, the said company shall be seized in fee of such land as is conveyed by the owner to them and their successors, by legal conveyance.

And whereas some of the places through which it may be necessary to conduct the said canal may be convenient for erecting mills, forges, or other water-works, and the person or persons possessed of such situations may design to improve the same, and as it is the intention of this act not to interfere improperly with private property, but for the purposes of improving and perfecting the said navigation.

Sec. 22. *Be it therefore enacted*, That the water, or any part thereof, conveyed through any canal or cut made by the said company, shall not be used for any other purpose but navigation, unless the consent of the proprietor or proprietors of the land through which the same shall be led, be first had, except the company shall be at liberty to erect water-works on that part of the ground lying on each side of the foot of the canal, on the bank of the river, and which it will be necessary to condemn for the purposes of securing and guarding the said canal, which condemnation shall not exceed the distance

Company may  
erect water-  
works.

1805.

of forty poles on the said river, and shall not extend farther on each side of the canal, up the same, than will be sufficient for cuts and aqueducts to convey the water from the upper lock to the bank of the said river; and it shall be lawful for the president and directors, or a majority of them, to purchase of the proprietor or proprietors, of the lands adjoining the said canal, so much land as the said company judge necessary, to erect mills, forges, or other water-works thereon, or to sell or lease to the said proprietor or proprietors such portions of the water as the said president and directors may think proper, for the erection of water-works; and the said president and directors, or a majority of them, are hereby empowered and directed, if it can be conveniently done, to answer both the purposes of navigation and water-works aforesaid, to enter into reasonable agreements with the proprietor or proprietors of such situation, concerning the just proportion of expenses of making large canals or cuts capable of carrying such quantities of water as may be sufficient for the purposes of navigation, and also for any such water-works as aforesaid.

President, &c.  
to purchase land  
to erect build-  
ings on.

Sec. 23. *And be it further enacted*, That the said president and directors, or a majority, are hereby authorized to agree with the proprietor or proprietors, for the purchase of a quantity of land, not exceeding one acre, at or near the place of receipt of tolls aforesaid, for the purpose of erecting necessary buildings; and in case of disagreement, or of any of the disabilities aforesaid, or of the proprietor or proprietors being out of the state, then such lands may be valued, condemned, and paid for as aforesaid, for the purpose aforesaid; and the said company shall, upon payment of the valuation of the said land, be seized thereof in fee simple, as aforesaid.

And whereas sound policy requires that the laudable designs of those who may become adventurers in the aforesaid company, should be patronized by legislative sanction:

May establish a  
lottery.

Sec. 24. *And be it therefore enacted*, That it shall and may be lawful for the said president and directors of the Ohio canal company, or a majority of them, to propose any scheme or schemes of a lottery, for raising of a sum of money not exceeding the sum of thirty thousand dollars, and to sell and dispose of the tickets therein:

Provido.

*Provided*, that the said directors, or a majority of them,

shall, before the sale or disposal of any ticket or tickets in such lottery, give bond to the state of Kentucky, in the penalty of sixty thousand dollars, conditioned that they will well and truly apply the monies arising therefrom, according to the proposed scheme, within six months after the drawing thereof, to the payment of the prizes drawn by the fortunate adventurers in said lottery, upon application being made by him, her or them for the same, and the necessary expenses incurred in the management thereof, and the residue to the use of the company, in such manner and to such purposes as the said company may order and direct, in order to carry into effect the provisions of this act.

1805.

Sec. 25. *And be it further enacted*, That the said bond shall be lodged in the clerk's office of the county court of Jefferson, to be by him recorded; a copy of such bond, under the hand of said clerk, shall be good evidence in an action of debt against the said obligors, or any of them, their, or either of their heirs, executors or administrators, brought in the name of the state, for the use of any person concerned, for any breach or non-compliance with the condition of the same: *Provided nevertheless, and it is hereby enacted*, that nothing in this act contained shall authorise the said president and directors to hold such lottery, or sell or dispose of any ticket or tickets for the same, unless the directors, or a majority of them, shall first take an oath or affirmation before some justice, of the peace of the county, that they will honestly demean themselves as managers and judges of the said lottery; and that they will faithfully render unto the fortunate adventurers their respective prizes; and that the certificate of such oath shall be returned with the bond aforesaid, to the county court clerk's office of Jefferson, under the seal of the justice who shall have administered the same.

Bonds for the payment of prizes to be recorded.

President &amp; directors to be sworn.

Sec. 26. *And be it further enacted*, That the tolls herein before allowed to be demanded and received, are granted and shall be payable on condition only that the said Ohio canal company shall make the said canal sufficient for the navigation of boats drawing not more than three feet in time of low water, and which shall be at least twenty-four feet wide at the bottom.

Proviso as to the payment of tolls

Sec. 27. *And be it further enacted*, That in case the said company shall not begin the said canal within three

Canal, when to be finished.

1805. years after the passage of this act, and shall not complete the same on or before the first day of January 1815, then the said company shall not be entitled to any benefit, privilege or advantage, and then shall all interest of the said company, and all preference in their favor, as to the navigation and tolls, at, to or through any other part of the said canal, be forfeited and cease.

Sec. 28. *And be it further enacted*, That the books of the said company shall always be open to the inspection of the general assembly of Kentucky, or any person or persons to be appointed by them for that purpose.

Sec. 29. *And be it further enacted*, That the said canal and the works erected thereon in virtue of this act, when completed, shall forever thereafter be esteemed and taken to be navigable as a public highway, free for the transportation of all vessels and boats, and of all goods, commodities or produce whatever, upon payment of the tolls imposed by this act, and no other toll or tax whatever, for the use of the water of the said river, and the works thereon erected, shall at any time hereafter be imposed by the said company, president and directors, unless with the consent of the legislature of this state: *And provided always*, that the same shall be subject to such further regulations by the legislature, as they shall deem expedient, in order to prevent imposition by the said president and directors, or prevent fraud in evading the payment of tolls imposed on all articles or commodities carried up or down any part of the said canal.

This act shall commence and be in force from and after its passage.

#### CHAPTER CCLXXXVI.

*An ACT releasing the Right by Escheat of this State in certain Lands, to Joseph Vance and others.*

Approved December 20, 1805.

Alienage was the cause of the escheat, and generosity the motive for relinquishing it.

#### CHAPTER CCLXXXVII.

*An ACT for the relief of Daniel Ashby, late Sheriff of Henderson County.*

Approved December 20, 1805.

The lands of sundry non-residents, had, in 1801, been listed, both with him and the auditor. This act directed the auditor to credit him accordingly.



## CHAPTER CCLXXXVIII.

1805.

*An ACT to amend the several acts respecting the Town of Louisville.*

Approved December 21, 1805.

WHEREAS it is represented to the present general assembly, that a number of persons residing in the town of Louisville, are in the habit of raising and are now possessed of large numbers of swine, to the great injury of the citizens generally; and that there are a number of ponds of water in the said town, which are nuisances, and injurious to the health of the citizens, and the prosperity of the town: Preamble.

Sec. 1. *Be it therefore enacted by the general assembly,* That the present trustees of the said town, and their successors, or a majority of them, shall have full power and authority to remove the same, by such mode, and under such regulations as the said trustees, or a majority of them, shall prescribe. Trustees to remove nuisances.

Sec. 2. *And be it further enacted,* That the said trustees, or a majority of them, in addition to the present cash taxation, shall be vested with power to levy a sum not exceeding eight hundred dollars, for the purpose of repairing the streets of said town, and for such other purposes as they shall deem necessary and proper: and in consideration thereof, the citizens and titheables of the said town are hereby exonerated from compulsion in working on the streets; but each citizen and titheable shall be privileged to discharge his proportion of said tax in labor, at 75 cents per day for himself and tools; but if any citizen or titheable shall neglect and refuse well and truly to discharge the same in labor, when required, and be reported delinquent, the trustees shall examine the fact, and if he shall be found delinquent, they may make his proportion a cash demand, and proceed to have it collected accordingly. To levy an additional tax.  
Citizens may not work on streets, but may discharge tax in labor.

Sec. 3. *And be it further enacted,* That for the purposes of collecting this and all other taxes of said town, the said trustees and their successors, or a majority of them, shall have full power to appoint a collector or collectors, and stipulate the compensation for collecting the same. Collector, how appointed.

Sec. 4. *And be it further enacted,* That the said collector shall, under such regulations as the trustees shall His duty.

1805.

direct, proceed to collect the taxes, with power to make distress, if authorised by the trustees; but nothing in this act shall be so construed as to authorise a sale of real estate, or of making distress beyond the limits of said town.

Personal prop-  
erty may be  
distressed for  
taxes on lots.

Sec. 5. *And be it further enacted*, That where lots are owned by persons who do not reside thereon, distress for the taxes thereof may be made of the personal property of any person resident thereon, or of such property as may be thereon with the privity of the owner; saving, however, that where lots are used for public purposes, as taverns, shops, and the like, such property as may be thereon, shall not be liable to distress for the taxes.

Regulations in  
case of collect-  
or's failure.

Sec. 6. *And be it further enacted*, That where a town collector as aforesaid, shall have given bond, with or without security, for the performance of his duties as collector, and shall have in any wise failed therein, and suit shall be brought thereon, it shall be the duty of the sheriff or officer executing the writ in such case, to endorse thereon the day or days on which he executed it; and where it shall appear from such endorsement that the writ has been executed ten days before the return day thereof, the declaration may be filed in court, and judgment may be rendered at the return term. And where such collector and his securities, or either of them, shall appear, they may join issue, otherwise an interlocutory judgment may be entered, and a writ of enquiry awarded, which may be executed at that or any subsequent term, and judgment entered accordingly; which judgment shall have the benefit of the act of *jeofails*, as in other cases are applied: *Provided, however*, that when this short mode of procedure is pursued, it shall discharge any appearance bail against whose principal it shall be had: *And provided also*, that nothing herein contained shall prevent the plaintiffs from proceeding in the ordinary way, where they shall deem it expedient. And where any collector shall be found delinquent, he shall pay at the rate of 15 per centum per annum on the money unaccounted for by him, from the time it should have been paid until the time of trial; and the privilege of giving a forthcoming or a replevin bond, or of the sale of property on a credit, shall not extend to delinquent collectors, or their securities, against

Proviso.

Penalty on col-  
lectors, & fur-  
ther regulations

1805.

whom judgment shall be entered under this act; but in such cases the clerk shall endorse on the execution, "No security to be taken," which shall be obeyed accordingly. 1805.

The said trustees, and their successors, shall have full power and authority to make all such rules, regulations and by-laws which they may deem necessary to carry this act into effect, and all other acts of the legislature respecting the said town, and for the proper government of the same and the harbor at the mouth of Beargrass, not inconsistent with the constitution and laws of the United States, and of this state. Trustees may make by-laws.

Sec. 7. *And be it further enacted,* That all persons resident on the five, ten, and twenty acre lots of said town, shall have a right to vote for trustees of said town, and be voted for as such, any law to the contrary notwithstanding. All acts and parts of acts coming within the purview of this act, shall be and the same are hereby repealed. Certain persons may vote.

This act shall commence and be in force from the passage thereof.

#### CHAPTER CCLXXXIX.

*An ACT making provision for opening a Road from Danville to Tellico, in the State of Tennessee.*

Approved December 21, 1805.

WHEREAS it is represented to the present general assembly, that it will be of great utility to the citizens of this state to open a road from Danville to Tellico, on Tennessee river, the way marked out and reported by the commissioners for that purpose: therefore, Preamble.

Sec. 1. *Be it enacted by the general assembly,* That Robert Modrel, Tunstall Quarles, and Jonathan Smith, be, and they are hereby appointed commissioners to let the opening a road from Smith's ferry, on Cumberland river, to the Tennessee line, to the lowest bidder, and upon the best terms they can: *Provided* the sum shall not exceed two hundred and fifty dollars; and they shall require security of the undertaker, and take bond with sufficient security, to be approved of by the commissioners, in the penal sum of five hundred dollars, payable to the governor and his successors, to open the said road, marked as aforesaid, fifteen feet wide, by Commissioners to let the opening of.

Bond & security to be given, &c.

1805.

cutting and digging, so as to put it in good repair for waggons to pass by the first day of October next.

Commissioners  
to certify the a-  
mount due un-  
dertaker.

E a

Sec. 2. *Be it further enacted*, That when the undertaker shall prove to the commissioners herein appointed, that he has opened the said road according to his contract, they, or a majority of them, shall certify the amount which he shall be entitled to, to the auditor of public accounts, who shall issue his warrant for the same on the treasury, and which shall be paid out of any money therein.

Bond to be de-  
posited in Pu-  
laski, & when.

Suit may be  
brought against  
undertaker.

Sec. 3. *Be it further enacted*, That the said commissioners shall deposit the bond so taken by them with the clerk of the Pulaski circuit court, within twenty days after taking the same. And they, or any of them, are authorised to bring suit on the same for a failure by the undertaker to comply with his contract, and all damages recovered thereupon, after paying the legal costs, shall be applied towards opening the said road.

To be adverti-  
sed, and where.

Sec. 4. *Be it further enacted*, That the said commissioners shall advertise two months at the court-house doors of Lincoln, Pulaski, and Wayne counties, and in the Informant at Danville, the letting the said road at the court-house in Pulaski county, on the fourth Monday in May next.

This act shall commence and be in force from and after the passage thereof.

### CHAPTER CCXC.

*An ACT to amend an act entitled "an act to establish and endow certain Academies."*

Approved December 27, 1805.

Preamble.

to be

Trustees of the  
Shelbyville a-  
cademy, their  
number regu-  
lated.

WHEREAS it appears to the present general assembly that by the provisions of the above recited act, there was appointed to the Shelbyville academy thirteen trustees, and a majority of whom was to constitute a board to do business, which from experience are found too great a number to do business with facility or convenience: for the remedy whereof,

Sec. 1. *Be it enacted by the general assembly*, That it shall and may be lawful for the present acting trustees, or a majority of them, to hold an election among themselves for the purpose of choosing seven fit and suitable persons out of their own body, or other persons

belonging to the county, as to them may seem most fit and proper; who, when elected, shall be the trustees, possess all the power and privileges, as the thirteen trustees heretofore appointed by the before recited act.

1805.

And whereas by the before recited act, passed the 22nd day of December 1798, an academy was established in the then counties of Warren, Logan, and Christian, by the name of the Newton Academy, and trustees appointed thereto, who have never yet met and arranged the business of said academy, and have neglected to act as a corporate body, and some of them have departed this life, some resigned, and others removed:

Recital,

Sec. 2. *Be it therefore enacted*, That Ninian Edwards be appointed a trustee to said academy, in the room of John Caldwell, who hath departed this life; Armstead Morehead and William Reading, in the place of Amos Balch and John Bailey, removed; Walter Jones, in the room of Israel M'Gready, resigned.

Trustees to the  
Newton academy.

Sec. 3. *And be it further enacted*, That the first meeting of the trustees of said academy, shall be held on the first Monday in April next, in the town of Russellville; and a majority of said trustees having met, shall be a number sufficient to proceed to business; and said trustees shall have full power and authority to make their own adjournments, and fix on a time and place for holding their meetings ever thereafter, and to expel members and fill all vacancies they may think proper, that may happen either by death, resignation, or otherwise.

Meetings when  
held.

Sec. 4. *And be it further enacted*, That Amos Edwards, William W. Whitaker, and Armstead Morehead, be appointed trustees to the Logan county academy, in the room and stead of Rezin Davidge, Moses Steele, and William S. Dallum, who by law were appointed trustees to said academy, and have since removed out of the said county of Logan; and that the trustees of said academy, or a majority of them, are hereby vested with full power and authority to fill vacancies that may happen in their body, either by death, resignation, or refusal to act at any two meetings of said trustees succeeding each other, provided they have notice of such meeting.

Logan academy.

Sec. 5. *And be it further enacted*, That if a majority of the trustees of the Newton Academy should fail to meet on the first Monday in April next, at the town of

Regulations of  
the Newton Academy.

1805.

Russellville, that any four of them having met shall have power and authority to adjourn and fix on their next time and place of meeting, but not to proceed to any other business.

Recital.

And whereas it is represented that the persons last acting as trustees of the Winchester academy cannot legally act, owing to their omitting to hold stated meetings, agreeable to the true intent and meaning of the act establishing the said seminary, and the acts amendatory thereto: therefore,

Regulations as  
to the Win-  
chester acade-  
my.

Sec. 6. *Be it enacted*, That the said persons, or a majority of them, and their successors, shall have full power to meet and transact the business of the institution, in the same manner and under the same regulations as at present prescribed by law.

Hartford aca-  
demy.

Sec. 7. *And be it further enacted*, That the trustees of the Hartford academy, from and after the first day of April next, shall consist of seven members; and it shall be the duty of the present acting trustees of said academy, on or before said day, to designate by lot seven persons out of their own body, to be trustees of said academy, from and after said day. And if they fail so to do, Joshua Crow, Harrison Taylor, Samuel Work, Jesse Cravens, Benjamin Fields, Christopher Jackson, and Stephen Clever, and their successors, shall forever thereafter be trustees of said academy, with all the powers and authorities vested in the trustees of said academy, by the law establishing said academy.

Madison.

Sec. 8. *Be it further enacted*, That from and after the first day of April next, the trustees of the Madison academy shall consist of five members; and it shall be the duty of the present trustees, on or before the said day to designate five persons by lot, from their own body, to be the trustees of said academy from and after said day: and if they should fail so to do, Robert Rodes, Archibald Woods, William Irvine, John Patrick and James Barnett, and their successors, shall be and remain trustees of said academy, with all the powers and authorities vested in the trustees of said academy by the law establishing it.

Whereas an inconvenient number of trustees have been appointed to the Kentucky Seminary, and their majority have requested a deduction of numbers, and further privileges: wherefore,

#### XIV. YEAR OF THE COMMONWEALTH.

279

Sec. 9. *Be it enacted by the general assembly,* That the trustees of the Kentucky Seminary may form a board and elect seven of their present members, who shall continue in office ; and the rest shall be thereby discontinued, and thenceforth seven shall be the number of trustees of said seminary ; which seven, and their majority, shall have all the powers and privileges, and perform all the duties which are or would have been required of said trustees, if this act had not been passed. The trustees of said seminary may erect a seminary-house on the public ground in Frankfort, at such place as the governor shall deem least incommodious to the buildings of the commonwealth ; the free use of which seminary-house, shall be vested in the said seminary corporation forever. The trustees of the said seminary may exchange the lands of said corporation for other lands, or they may sell and convey them, and lay out the money in other lands or in improvements, as they shall deem most useful to the institution : *Provided, however,* That to any measure taken under this section, a concurrence of a majority of the seven trustees must be had.

1805.

Kentucky Seminary.

Powers vested in the trustees.

Whereas it is represented to the present general assembly that several county courts in this commonwealth have caused to be located and surveyed for the use of an academy in each of their counties, respectively, 6000 acres of land, under the before recited act : and whereas some of the counties for which such locations and surveys have been made, did not exist at the time of the passage of the before recited act, and doubts exist whether such counties were entitled to the benefit of the before recited act : for the remedy whereof,

Recital.

Sec. 10. *Be it enacted by the general assembly,* That the locations and surveys made by such county courts, shall be as valid as if the said counties had been in existence at the time of the passage of the said act ; and that two years from the passage of this act shall be allowed the said county courts to carry their respective donations into grant. Nothing herein contained shall be construed to authorise any academy or county to secure more than the 6000 acres allowed by the said act.

Locations, &c. for the county courts, declared valid.

Sec. 11. *Be it farther enacted,* That the several county courts of counties in which academies have not been established, or for the benefit of which no appropriation

Certain county courts deemed entitled to donations.

1805. of land has been made under the before recited act, shall be and are hereby authorised to have located, surveyed and patented, of any vacant lands of this commonwealth, 6000 acres, for the use of such school as may be hereafter established within either of the said counties, under the like rules and regulations as are prescribed by the act approved February 10th 1798, entitled "an act for the endowment of certain seminaries of learning, and for other purposes:" *Provided*, that no seminary lands shall hereafter be located on any lands within this commonwealth, whereon any Indian claim may have been, since the year 1794, or shall hereafter be extinguished: *Provided, however*, that no location, made under this act, shall be allowed to interfere in any manner with certificate rights, granted to settlers on vacant lands in this commonwealth. And should any location made under this act, by mistake, be made to interfere as aforesaid, such part shall be deemed null and void.

Provisions and restrictions.

This act shall commence from and after the passage thereof.

#### CHAPTER CCXCI.

*An ACT authorising John Pope to erect a Bridge across the Kentucky River.*

Approved December 21, 1805.

Preamble.

WHEREAS it is represented to the present general assembly, that the erection of a bridge across the Kentucky river, from the end of Anne street to South Frankfort, will be of great public utility; and that John Pope will undertake it, if proper encouragement is given by the legislature: therefore,

John Pope may erect a bridge.

Sec. 1. *Be it enacted by the general assembly*, That the said John Pope, or his assigns, his or their heirs or legal representatives, be, and he or them are hereby authorised to erect a bridge at the place aforesaid, upon the terms and conditions hereafter mentioned, to wit:

What conditions.

First—that the same shall be completed within two years from and after the first day of September next—secondly, that it shall not in any manner injure the navigation of said river—thirdly, that the said Pope, or his assigns, &c. shall, within six months from the end of the present session, enter into bond, with good and suf-



ficient security, in the secretary's office, in the penalty of twenty thousand dollars, payable to the governor and his successors, conditioned for the payment of all such damages which may be sustained by persons navigating the said river ; on which bond, all and every person or persons navigating the same, who may be injured by the erection of said bridge, may bring suit and recover all damages they may have sustained thereby.

1805.

Sec. 2. *And be it further enacted*, That the governor and his successors may, from time to time, require new and additional security from the owners and keepers of said bridge, whenever it shall appear necessary.

Governor may require new security.

Sec. 3. *And be it further enacted*, That the said John Pope, or his assigns, his or their heirs or other legal representatives, may, if it shall be necessary, sue out one or more writs of *ad quod damnum* from the county court of Franklin, in the manner prescribed by law in case of application for leave to build water grist-mills, directed to the sheriff of said county, commanding him to empanel a jury of twelve disinterested men of the county, to estimate the value of so much land adjacent to the intended terminations of the said bridge, as may be deemed necessary for fixing the abutments thereof ; which estimation being reported to the said court by the said inquest, shall be recorded therein, and shall vest in the said Pope, or his assigns, his or their heirs, or other legal representatives, the fee simple estate in and to such lands, upon the payment or tender of the said estimated value to the original proprietor or proprietors thereof, his or their agents.

Writs of *ad quod damnum*, may issue.

To whom directed, and for what purpose.

Land vested, &amp;c.

Sec. 4. *And be it further enacted*, That the said Pope, or his assigns, his or their heirs or legal representatives, shall be entitled to demand and receive the following tolls for passing the said bridge, to wit :

Entitled to receive tolls.

	C.	M.	
For every man or woman, - - -	4	5	What tolls.
For every child above five years old, - - -	4	5	
For every horse, mare or colt, - - -	5		
For every waggon, - - -	50		
For every cart, - - -	37	5	
For every riding carriage with four wheels, - - -	50		
For every riding carriage with two wheels, - - -	37	5	
For every head of neat cattle, - - -	2		
For every head of sheep, goats or hogs, - - -	1		

1805. For every hogshead of tobacco rolled or carried c. m.  
across, not being in a waggon or cart, - 25

Sec. 5. *And be it further enacted*, That the said Pope,  
Owners, &c. and all and every person or persons who may hereafter  
subject to the become the owners or keepers of the said bridge, shall  
legislature. be subject to such regulations and restrictions as the  
legislature may, from time to time, deem just and ne-  
cessary ; and the legislature hereby expressly reserve  
the right and power of altering and repealing all the  
rights and privileges hereby granted, whenever it shall  
appear to them to be just and expedient to do so.

Sec. 6. *And be it further enacted*, That the act en-  
Repealing titled " an act for incorporating the Frankfort Bridge  
clause, Company," approved on the 21st day of December,  
1799, shall be, and the same is hereby repealed.

Sec. 7. *And be it further enacted*, That when the  
Who privileged said bridge shall be erected as aforesaid, immediate  
passage shall be given to all public messengers and ex-  
presses, whenever required, as long as the existence of  
the said bridge, without any tolls ; also, on the days of  
election for representatives, senators, governor, lieuten-  
ant-governor and representatives to congress, the voters  
for said officers shall be on such days privileged to pass  
without any payment of toll whatever, to and from such  
elections ; also, on days of mustering, under the laws  
of this commonwealth, the officers and soldiers who  
wish to pass for the purpose of attending said musters  
to perform militia duty, shall be also privileged to pass  
toll free.

This act shall be in force from and after the passage  
thereof.

## CHAPTER CCXCII.

*An ACT to amend and reduce into one the several acts  
concerning the Turnpike and Wilderness Road.*

Approved December 21, 1805.

SECTION 1. *BE it enacted by the general assembly*,  
Keeper to be That the governor is hereby authorised and required to  
annually ap- appoint a keeper of the turnpike, annually, whose duty  
pointed and his it shall be to keep the same at the place where it now  
duty, stands : nevertheless the governor shall have power to  
order the said keeper to remove the said gate to the place  
where it was first erected, whenever such removal may

be found necessary; and the keeper of the turnpike shall keep a book and enter therein each day of the month the sum of money received thereon from the turnpike, and shall transmit said book, or a copy thereof, every two months, to the clerks of the county courts of Lincoln, Madison, and Knox, after he shall have made oath before some justice of the peace that it contains a just and true account of the sum of money received on each day, as shall be stated therein, which shall be certified in said book by the said justice, and signed by the keeper. If the said keeper shall at any time be unable to attend to the duty of the turnpike, either from indisposition or unavoidable business, he shall employ some person to attend for him, who shall for the time keep a separate account, under the same regulations as above mentioned, respecting the keeper and his book in every respect, and on failure thereof the keeper shall be responsible; and if the said keeper shall at any time fail to keep the said list or book of the amount received from the turnpike each day, or shall make out a false or fraudulent list, or shall fail to transmit it as aforesaid, he shall be subject to a fine of fifty dollars for every such offence. Each turnpike keeper hereafter to be appointed, shall give bond and good security, to be approved by the governor, payable to him and his successors, in the penalty of four thousand dollars, and conditioned to perform the duties enjoined him by law, and account for all money collected from the turnpike as herein directed; and on failure in any of the said duties, he may be sued on said bond in the general court or either of the circuit courts of Madison, Lincoln, or Knox; and a copy of such bond, certified by the secretary of state, shall be good evidence in any suit brought thereon, in either of the circuit courts. There shall be allowed to the keeper of the turnpike, for his services, two hundred dollars annually, to be paid out of the money collected from the turnpike, fifty dollars of which he is hereby authorised to retain quarterly.

Sec. 2. *Be it further enacted*, That the said wilderness road shall be cleared and kept in good repair for the passage of carriages of all kinds, under the direction of the several county courts through which it passes; that is, the county court of Knox shall keep in repair the said road from the Cumberland Gap to the

1805.

To keep a book  
and for what  
purpose.

He may appoint  
a deputy.

Penalty on the  
keeper.

To give bond.

Penalty.

Condition.

Proceedings  
thereon.

Road to be kept  
in repair, and  
how.

1805. sixty-one mile tree on said road ; the county court of Lincoln, from the said sixty-one mile tree to Grassy Lick ; and the county court of Madison, from Joe's Lick, in Madison county, to the intersection of the road leading from Grassy Lick to the Cumberland Gap ; and for that purpose each of the said county courts shall have power to lay off such parts of the said road, within the bounds aforesaid, into precincts, as they may deem proper, and appoint a surveyor and hands to each precinct, whose duty it shall be to keep the same in good repair, as before directed, under the penalty of ten dollars for every failure, to be recovered by warrant before a justice of the peace, or by presentment of the grand jury of the circuit court of the county having the direction of such part of said road. And whenever the county court of Madison county shall be of opinion that a nearer or better way can be got in their part of the road, or that it will be more advantageous to intersect the Crab Orchard road at a different place than the present, they may make such order therein as to them may appear proper for the viewing and opening such nearer or better way, as in case of other public or county roads : *Provided*, that the said court shall have no power to stop any part of the said state road until authorised by law.
- Sec. 3. Be it further enacted, That the said county courts shall each, annually, appoint one fit person as commissioner to superintend that part of the said road that is under their jurisdiction, each of which said commissioners shall, in the court of the county to which they are appointed, immediately enter into bond with good security, payable to the governor for the time being and his successors, the Knox commissioners in the sum of two thousand dollars ; and the Lincoln commissioners, and the Madison commissioners, in the sum of one thousand each, conditioned for the faithful performance of the duties enjoined them by law ; which bonds may be put in suit on behalf of the commonwealth, by the attorney for the circuit court of the county by whom such commissioner may be appointed, for any failure or misconduct in the commissioner ; and the said county courts shall have power to remove their respective commissioners, and appoint another in their place, as often as they may judge proper, a majority of all the justices of said county being present.*
- To be laid off into precincts.
- Penalty.
- How recovered.
- How & in what cases the road may be altered.
- Proviso.
- Commissioners to be appointed, and their duty.
- To give bond.
- Penalty.
- How proceeded on.
- May be removed.

Sec. 4. It shall be the duty of the keeper of the turnpike to pay into the hands of either of the said commissioners, as often as he shall be called on, a just proportion of the tolls by him received, to be divided as follows: to the Knox commissioner one half of the said tolls, the other half to be divided between the Lincoln commissioner and the Madison commissioner, in proportion to the number of miles each superintends; that is, the Lincoln commissioner twenty-seven, and the Madison commissioner thirty-four miles; which money shall be laid out by said commissioners, under the direction of the said county courts, in repairing and improving said road in such places and in such manner as cannot be conveniently done by the citizens living near the same. And each court shall make such allowance to their commissioner, for his services in superintending said business, as they shall judge reasonable, so that such allowance shall not exceed one dollar and fifty cents per day for each day he shall be actually employed in repairing said road. The said commissioners shall each make a fair statement, on oath, of all the money by them received, and also the amount by them expended and laid out in the hire of laborers and other necessary expenditures, and also a description of the tools, implements, &c. that they may have on hand in the months of May and November annually, to their respective county courts, who shall examine the same, and pass it, or so much thereof as they shall find just.

Sec. 5. *And be it further enacted,* That there shall be paid for passing the turnpike, for all wheel carriages, twelve and a half cents for each wheel; for each person above ten years of age, six cents two and a half mills; for each head of horse beasts, six cents two and a half mills; for each head of neat cattle, three cents; for each head of hogs and sheep, one cent: *Provided*, that no toll shall be collected from post-riders or expresses, or from any person or their property, who may be compelled to work on said road; for which purpose the several commissioners shall make out and transmit to the keeper of the turnpike, a list of all such persons as are compelled to work on his part of the road; and in case of doubts in any of the above cases, the keeper of the turnpike shall have a right to administer an oath to such persons; and if any person shall pass or attempt to pass

1805.

Keeper to pay,  
and to whom.Money - how to  
be appropriated.Allowance to  
commissioners.Who are to  
make a state-  
ment.

Provido.

Penalty for at-  
tempting to pass

1805. the said turnpike before paying the fees aforesaid required to be paid, or avoid, or attempt to avoid it, every such person shall forfeit and pay five dollars, which shall be considered as toll collected from the turnpike; and it shall be lawful for the keeper to retain any such person till the fine and fees for passing are paid; and if any wrong-doer is unable to pay the fine and fees, the keeper may discharge them, or employ them in repairing said road, for a period not exceeding six days: *Provided*, that if any person wishes to pass the turnpike, and is unable to pay the fees, upon oath being made to that effect, which the keeper may administer, such person shall pass free.

*Amount of the receipts to be transmitted to the governor, & when.* Sec. 6. And it shall be the duty of the keeper of the turnpike to transmit to the governor, on the first Monday in November, annually, a statement of all the money by him received, and the amount of the receipts of the different commissioners.

*List of the rates of toll to be set up, &c.* Sec. 7. *And be it further enacted*, That the keeper of the turnpike shall keep a correct list of the rates of toll affixed on each side of the turnpike gate, which shall be printed in plain legible print, for the information of travellers, and also keep at the turnpike, a copy of this act, which he shall show to any person desirous of seeing the same.

*Keeper & commissioners, duties enjoined on.* Sec. 8. *And be it further enacted*, That it shall be the duty of each turnpike keeper and commissioners that may go out of office, or be superseded, to surrender up to his successor, on application, all money, tools, provisions, &c. which he may have in his hands, by virtue of his office, as turnpike keeper, or commissioner; and if the turnpike keeper shall fail so to do, he shall be subject to a penalty of one hundred dollars, recoverable in the name of the commonwealth, by action of debt, information or indictment, in the general court, or either of the circuit courts aforesaid; and to be applied as money collected from the turnpike. And all other penalties imposed on the turnpike keeper by this act, shall be collected and applied in like manner. And if either of the commissioners shall fail as aforesaid, he shall be subject to a penalty of fifty dollars, recoverable in like manner, in the circuit court of the county by whose court he may be appointed; and to be applied on that part of the road of which he was commissioner, as the

*To pay money, deliver tolls &c.*

*Penalty.*

*How recovered and applied.*

XIV. YEAR OF THE COMMONWEALTH.

287

ney collected from the turnpike ; and such turnpike keeper and commissioner, shall each be also liable to an action on his bond, as before directed. 1805.

Every act or part of an act coming within the purview of this act, shall be, and is hereby repealed. Repealing clause.

This act shall commence and be in force from and after the first day of May next. To commence,

CHAPTER CCXCIII.

*An ACT to confirm the proceedings of the County Court of Henderson.*

Approved December 23, 1805.

They had laid the levy in an improper month : this act confirmed the proceeding.

CHAPTER CCXCIV.

*An ACT authorising the County Court and Circuit Court of Fayette, to sit in any House in Lexington, until the erection of a new Court-House, and for other purposes.*

Approved December 23, 1805.

CHAPTER CCXCV.

*An ACT incorporating the Frankfort Water Company.*

Approved December 23, 1805.

WHEREAS it is represented to this general assembly, that by subscription a fund was raised, and thereby water carried in pipes from the Cedar Cove Spring into Frankfort, at about three miles distance, which is found useful to the citizens, and all others who have occasion to be in Frankfort ; that the expense thereof hath been great, and the fund thereby exhausted ; that sundry subordinate improvements remain to be done ; that the necessary repairs must from time to time be done ; all which will require further funds ; that abuses occasionally take place, whereby the improvements, the use thereof, and the citizens aforesaid, and others, are injured ; and it is supposed those evils may be measurably remedied, by incorporating the persons interested therein, and vesting them with proper powers : wherefore, Preamble;

Sec. 1. *Be it enacted by the general assembly, That* John Brown, William Trigg, and Achilles Sneed, be, *Regulators appointed, & their duty.*

1805.

and they are hereby appointed regulators of the Frankfort Water Company, who, or any two of them, shall determine what sum shall be a share, and shall then divide the subscriptions into shares accordingly: *Provided, however,* that if any subscription shall be of a sum too small to be a share, it shall be so provided for by them, as to have a due and equitable effect, in proportion to the shares; they shall fix on a time and place for holding an election for five of the shareholders to act as directors, of which they shall give such notice as they shall deem reasonable; the said election shall be held under the direction of the said regulators, or their majority, in which each shareholder shall be entitled to a vote for each share he shall hold; provided he shall not exceed ten votes: and for the purpose aforesaid the said regulators are hereby vested with power to make rules, determine difficulties, and do such other things as may be necessary to give operation to the design aforesaid, according to the true intent thereof. And the said election being complete, the said regulators shall deliver over their books and papers relative thereto, to the said directors, and then the duties of the said regulators shall cease.

Directors to  
form a board,  
and choose a  
president.

Company incor-  
porated.

Its name and  
style.

Powers.

Sec. 2. Within ten days after the election aforesaid, the five directors, or a majority thereof, shall meet and choose one of their own members to act as president, and from thenceforth the said company shall be a body politic and corporate, in deed and in law, and shall be styled and known by the name of the President and Directors of the Frankfort Water Company, and by the same name shall have perpetual succession, and enjoy all the privileges incident to a corporation, and shall be capable of taking and holding as tenants in common, their capital stock, and the increase and profits thereof; and all such lands and tenements as shall or may be necessary for carrying the plan into complete operation, and by the name and style of the president and directors of the Frankfort Water Company, may sue and be sued, or do and perform every other matter or thing which a corporation or body politic may lawfully do.

Rotation in  
which the di-  
rectors are to go  
out of office.

Sec. 3. The said president and directors shall be divided into two classes, three in one class, and two in the other, one of which classes shall go out of office in every year, on the first Monday in January, and it shall be



determined by lot which class shall first go out, and afterwards it shall be alternate ; the directors who shall thus go out of office, may nevertheless be re-elected, subject to the exception herein after mentioned.

1805.

Sec. 4. On the first Monday in January aforesaid, an election shall be held under the direction of the remaining directors, who are in office, for the purpose of electing directors of the shareholders to fill the vacancy thus made, which shall be held at such place in Frankfort, as the president and directors, by their by-laws, shall direct ; in which election, the shareholders shall be entitled to votes, as in the first section of this act is directed ; and in all elections under this act, the persons having the greatest number of legal votes, shall be the persons elected ; but in case two or more have an equal number of votes, it shall be determined by lot.

Elections of directors regulated, and when to be held.

Sec. 5. In case shareholders do not attend to elect as aforesaid, on the day hereby appointed, the directors who remain in office may fill the vacancy ; but in such case they shall not re-elect more than one of the persons who are just gone out of office.

Provisions in case elections are not held.

Sec. 6. The said president and directors shall have power to choose such officers as they may find necessary, who shall be removable at pleasure ; they shall also have full power to ordain and put in execution such by-laws and regulations as they shall deem necessary and convenient for the government, safe keeping, repairing and amending said water-works, and to dispose of the use of the water in such manner as they may think best adapted to the security, maintenance and advantage of the same : *Provided* they do not violate any of the laws of the commonwealth.

Powers of the president & directors to appoint officers.

To make by-laws, and to what effect.

Sec. 7. The said directors may fill vacancies which may take place in their own body between the times of filled election as aforesaid ; and if at any time one or more or all of the directors should be out of office, the corporation shall not be thereby destroyed, but such directors (if any) as remain in office may fill the vacancies ; or if all are out of office, then the shareholders, or such of them as shall attend, may at any time elect five directors, who may choose their president and proceed ; and, moreover, if at any time they shall be without a president, they may elect one of their own members to act as such ; and if on any occasion the president cannot attend, they

Vacancies how filled.

Directors may elect a president pro tem.

1805. may among themselves choose one *pro tem.* and any three shall be a quorum to do business.

Acts and by-laws to be recorded.

Sec. 8. They shall cause all their acts and by-laws to be fairly entered in a book for that purpose, and signed by the president for the time being.

This act shall be in force from and after its passage.

#### CHAPTER CCXCVI.

*An ACT for the relief of Polly Hauskins.*

Approved December 23, 1805.

She was allowed a divorce from her husband, Jesse Hauskins, on a jury's finding that he had abandoned her, and lived in reputed adultery with Polly Smith, and that he had treated her cruelly—provided she had been guilty of no manner of misconduct towards her said husband

#### CHAPTER CCXCVII.

*An ACT to amend the act entitled "an act concerning the Town of Maysville, in the County of Mason," passed December the 1st, 1803.*

Approved December 23, 1805.

SECTION 1. *BE it enacted by the general assembly,* That every owner of a ferry and ferryman, who resides in the town of Maysville, in the county of Mason, shall be bound to work on the streets, and such roads as other titheables are bound to do, who reside in the said town, and be subject to the same penalties for neglect or refusal, as other persons are; any law to the contrary notwithstanding.

Sec. 2. *And be it further enacted,* That the ninth section of the said recited act shall be, and is hereby repealed.

Sec. 3. *And be it further enacted,* That the trustees of the said town of Maysville shall have full power to execute deeds or conveyances of any lots in said town, any law to the contrary notwithstanding. All laws coming within the purview of this act, shall be, and the same are hereby repealed.

This act shall commence and be in force from and after the passage thereof.

XIV. YEAR OF THE COMMONWEALTH.

291

CHAPTER CCXCVIII.

1805.

An ACT to amend the proceedings in Criminal Cases.

Approved December 24, 1805.

*Vide* Vol. I, Chap. 162, and the prelection.

WHEREAS the several courts of criminal jurisdiction in this commonwealth, have given various and contradictory decisions upon many points of proceeding in criminal cases; and no appeal being allowed in those cases, error cannot be corrected, nor uniformity of decision preserved, but by the legislature's declaring and amending the law herein: therefore,

Sec. 1. *Be it enacted by the general assembly,* That a *capias*, *scire facias*, *venire facias*, or any other process to arrest a defendant or cause an appearance in any plea of the commonwealth, shall be returnable to the first day of the next term, unless directed by the court to be returnable to some day of the term on which it is awarded; and they may issue to any county in this commonwealth.

Sec. 2. When an indictment for a misdemeanor shall be found a true bill, and the defendant or defendants shall not be in custody of the officer, nor on bail, a *venire facias* shall issue to summon the defendant or defendants to appear and answer such indictment; and if the defendant or defendants shall not appear on the return of the *venire facias* executed, a *capias*, *alias capias*, &c. shall issue: *Provided, however,* that the court, in cases of a heinous nature, or where the defendant or defendants are likely to evade punishment, may order a *capias* in the first instance.

Sec. 3. Whenever a *capias* shall issue on an indictment for a misdemeanor, or other crime bailable by law, it shall be the duty of the court to name the sum in which the defendant may be admitted to bail, which shall be endorsed by the clerk on such *capias* and subsequent process when it issues. And when the officer shall arrest such defendant, he shall admit him or her to bail, on his or her entering into a bail bond to the governor for the time being, and his successors in office, to the use of the commonwealth, with two securities to be approved of by such officer, conditioned to be void on his appearing in court on the return day of such process, and surrendering himself or herself in custody: which

1805.

And if forfeited, how it may be proceeded on.

Process valid without endorsement, and how defendant may be bailed.

bail bond, if forfeited, may be proceeded on in the same manner as a recognizance of bail taken before the court.

And if it shall so happen that the court shall not name the sum in which the defendant may be admitted to bail, or the clerk shall fail to endorse it, the said process shall be good in law, and the defendant or defendants shall be admitted to bail by any circuit judge, or by one of the assistant judges of the circuit court, on his or her petition for that purpose.

At what term the trial is to be had.

Sec. 4. A defendant arrested after an indictment found, shall plead to issue and proceed to trial at the term to which the process is returnable under which he or she was arrested.

Regulations as to issuing *venire facias*.

Sec. 5. It shall not be necessary to issue a *venire facias* for summoning a jury where a defendant indicted shall not be in custody of the officer nor on bail; but it shall be the duty of the clerk, whenever such defendant shall be arrested, to issue a *venire facias* for a jury according to law, returnable on the day on which such indictment may stand for trial. And if the defendant be not in custody of the officer, nor on bail until the term at which his or her trial may be had, a *venire facias* for a jury shall be issued by the clerk, returnable immediately, or on such day of the term as the court may direct. And when any criminal case, requiring a *venire facias* for a jury, shall be continued, the clerk shall issue a new *venire facias* for a jury, returnable to the next term.

Causes for which a trial shall not be put off.

And if from any cause a jury shall not be returned for the trial of a prisoner indicted, or the return be quashed, or set aside, it shall be no cause for continuing the trial of such prisoner until the next term. But the court shall award a *venire facias* for a jury, returnable the same term, on such day as they may direct for his or her trial.

Causes for which the *venire facias* shall be directed to the coroner, or to a justice of the peace.

Sec. 6. If the sheriff of the county be defendant in a criminal prosecution, or be charged with being an accomplice or accessory in any manner thereto, or be related to the defendant, the clerk shall direct the *venire facias* for the jury to the coroner of the county, or if he be subject to any of the exceptions aforesaid, or be absent, he shall direct it to the justice of the peace of said county eldest in commission, who may not be subject to any of the exceptions aforesaid, and who has not been concerned in the trial or commitment of the defendant.

But nothing in this act contained shall prevent the courts of criminal jurisdiction from quashing, or setting aside, the array as heretofore, for partiality or improper conduct in the officer returning the same; and in such case the court shall award a new *venire facias* for a jury, directed to such indifferent person as they may name.

1805.

Sec. 7. No judgment in a prosecution founded on indictment or information, shall be arrested or reversed after a verdict thereon, for any defect in form in such indictment, information, or verdict; provided such indictment or information shall substantially contain a specific charge of an offence punishable by law, and provided the verdict shall substantially comport, in law, with such charge, or the material parts thereof.

Judgment not to be arrested or reversed for any defect in form.

Sec. 8. A petit or traverse jury shall have a right to find part of an indictment or information true, and if such part substantially contain a charge of felony, the defendant shall be punished according to the crime charged in such part, and the finding thereon; and if a jury find part of an indictment or information true, and say nothing as to the residue thereof, it shall be good in law, and taken as a finding of the residue for the defendant.

An indictment may be found in part, & when good.

Sec. 9. A variance between the indictment and commitment, or proceedings previous to the indictment, shall not be error.

What variance is not fatal.

Sec. 10. If before the swearing of a jury for the trial of an indictment or information, it be abated, quashed, set aside, or a *noli prosequi* be entered thereon, it shall be no bar against new proceedings by indictment or information; and the defendant or defendants shall not be discharged, but shall be committed or bailed, according to the nature of the case, for new proceedings to be had against him, her or them. If any person charged with any felony, murder, or treason, shall be apprehended and brought before a justice of the peace and discharged, it shall be no bar to his or her being prosecuted again.

Guilty which shall be no bar against new proceedings.

Sec. 11. In all cases of application by *habeas corpus* to a court, judge, or judges, if he or they be of opinion that the prisoner hath been guilty of any misdemeanor, felony, murder, or treason, for which such prisoner may be liable to a trial, but that the proceedings are so defective, that the prisoner cannot be detained in custody

Cases where a prisoner shall not be discharged on a *habeas corpus*.

1805.

under those proceedings, such court, judge, or judges, shall not discharge the prisoner, but shall admit him or her to bail, if the case be a bailable one, to appear in the court having jurisdiction of the case, or remand him to the custody of the officer, to be conveyed to the proper county, for new proceedings to be had against such prisoner.

How, and in what cases, *feme covert*s and infants may enter into recognizances, and the proceedings thereon.

Sec. 12. A *feme covert*, or infant, who may be a defendant in any criminal case which may be bailable by law, or who may be a witness for the commonwealth, may enter into any recognizance required or authorised by law; and if such recognizance be forfeited, the proceedings thereon shall be the same as in other cases, except that the *scire facias* shall also issue against, and be served on the husband of such *feme covert*, and parent or guardian of such infant, before judgment shall be rendered against either of them.

Proceedings on recognizances, regulated.

Sec. 13. When the attorney for the commonwealth conceives that any person or persons may have forfeited a recognizance by him, her or them entered into, for the benefit of the commonwealth, he may direct a *scire facias* to issue on the recognizance, and the defendant or defendants shall, at the term to which such process is returned executed, appear and plead, and the court shall proceed to give judgment the same term, unless continued for good cause shown; and if the defendant or defendants shall not appear and plead, judgment shall be rendered against him, her or them, at the same term.

Proceedings in cases of reparation for, & restoration of stolen property regulated.

Sec. 14. In any case of a conviction or judgment for a felonious taking of any property, the court rendering such judgment, or before whom such conviction may be had, shall not award a restitution of the property, nor a reparation in damages therefor, unless the claimant shall, at the same term at which the conviction or judgment may be had, and before the defendant may be removed to the penitentiary, by petition in writing, pray the court for a restitution of the property, or a reparation in damages; in which case, the court shall cause the prisoner to be brought to the bar, and demand of him or her, if he or she can allege any good cause why restitution of such property, or a reparation in damages, should not be awarded against him or her; and thereupon the defendant shall immediately plead to issue, and the court shall proceed to render judgment according to law.

# XIV. YEAR OF THE COMMONWEALTH.

295

summoning a jury to determine any matter of fact brought in issue by the pleadings, or to ascertain the value of any property in question : on which trials the verdict and judgment on behalf of the commonwealth, shall not, nor shall either of them be used as evidence against the defendant ; but the trial shall, in all respects, not herein otherwise expressly directed, be had according to law, and proceedings in civil cases : and the claim of restitution or reparation, shall be considered an action at law, and either party may take an appeal or writ of error to the court of appeals thereon. And if the owner of the property shall not proceed in the manner above directed, he may proceed by civil suit against the defendant, for redress, as for other injuries of a like kind.

1805.

Sec. 15. It shall be no cause of exception to a witness produced on behalf of the commonwealth on a charge of felony, that he or she hath an interest in the property about which the prosecution is depending, unless expressly excluded by act of assembly.

What shall not be a cause for exception to a witness for the commonwealth,

Sec. 16. A court before whom a criminal prosecution, or other suit in behalf of the commonwealth may be depending, may, for good cause shewn, continue the same ; and if the application be made on account of an absent witness, the court shall require the person applying, to state on oath what he or she expects to prove by such absent witness, and shall judge of its relevancy to the matters in issue.

Regulations as to continuances in criminal cases,

Sec. 17. Every act or part of an act coming within the provisions of this act, shall be, and the same is hereby repealed.

Repealing clause.

## CHAPTER CCXCIX.

*An ACT allowing Fees to Justices of the Peace for certain services.*

Approved December 24, 1805.

SECTION 1. *BE it enacted by the general assembly,* That the justices of the peace within this commonwealth, shall be entitled to receive for their several services the following fees, to wit :

For issuing a warrant for any sum in a civil cause,	12	C. M. Rates of fees,
Copy of a judgment and papers on an appeal,	50	5 and for what services,

1805  
1817

1805.

	C.	M.
Certificate of an oath, where it shall be required,	12	5
Posting a stray, for the whole service,	-	17
Issuing an attachment and taking bond,	-	50
Issuing a summons for a garnishee or garnishees, or taking schedule of effects,	-	12 5
Order of sale,	-	12 5
Attending to take depositions in any case, per day,	-	100
For certifying a power of attorney or deed of conveyance,	-	12 5
Taking recognizance of special bail,	-	25
Issuing an execution,	-	17
Attending to swear appraisers to the estates of deceased persons, per day,	-	50
Trying a warrant and giving judgment,	-	25
For issuing a summons for a witness out of the county in any civil cause,	-	12 5

By whom to be  
paid.

The said fees shall be severally paid by the person or persons requiring the several services; and where said fees arise as costs in any civil cause, they shall be taxed in the bill of costs, and charged against the unsuccessful party.

Penalty for ex-  
tortion, & how  
recovered.

Sec. 2. Any justice who shall demand or receive a greater fee for any service than is hereby allowed, or receive a fee for any other service than is hereby specified, shall, for every such offence, forfeit and pay five pounds, with costs, to any person suing for the same, in the circuit court for the county in which such offence shall be committed, and such court shall give judgment accordingly.

Regulations as  
to strays.

Sec. 3. When two or more strays of the same species are posted by any justice, such justice shall receive the same fee only as if there were but one, from any one person.

Justices may is-  
sue their fee-  
bills, and how  
to be collected  
and paid.

Sec. 4. The justices, in case of non-payment, shall have power to make out their fee-bills for any fees that may become due by virtue of this act, and put the same into the hands of the sheriff or constable, to be collected and paid as the fees of the sheriffs of the several counties are within this commonwealth.

To commence.

This act shall commence and be in force from the first day of April next.



XIV. YEAR OF THE COMMONWEALTH.

297

CHAPTER CCC.

1805.

*An ACT altering and extending the Terms of sundry Circuit Courts.*

Approved December 24, 1805.

SECTION 1. *BE it enacted by the general assembly,* That the circuit courts of Garrard and Jessamine may sit twelve judicial days at each term, provided the business before them shall require it.

The terms of  
sundry circuit  
courts extend-  
ed.

Sec. 2. The Franklin circuit court, at each term hereafter, shall continue twelve judicial days, if necessary; and the term thereof, which heretofore hath been held in April, shall be changed so as to commence on the third Monday in February, in every year. And all process and recognizances, which may relate to April term, shall relate to the said February term next, and be as good and valid thereto, as if they had expressed February instead of April.

Garrard & Jessamine.  
Franklin.  
April term al-  
tered to Febru-  
ary.

Sec. 3. The Shelby circuit court, at their June and September terms, in every year, shall continue each twelve judicial days, if necessary.

Shelby.

Sec. 4. *Be it further enacted,* That the circuit courts for Henry county, shall commence on the third Monday in February, the fourth Monday in June, and the fourth Monday in September, in every year; and shall, at each term, sit six judicial days, if the business before them require it.

Henry circuit  
terms altered.

Sec. 5. The circuit courts of Gallatin county, on the fourth Monday in February, the first Monday in July, and the first Monday in October, in every year; and shall at the February term sit six judicial days, at their July term sit twelve judicial days, and at their October term sit six judicial days, if the business before them require it.

Gallatin circuit  
court terms re-  
gulated.

Sec. 6. *Be it further enacted,* That the county court for the county of Jefferson, shall commence on the first Monday in every month in the year, except those months in which the first Monday thereof shall be included in a circuit court term.

Jefferson coun-  
ty courts when  
to be held.

This act shall be in force from and after its passage.

To commence.

1805.

## CHAPTER CCCI.

*An ACT legalizing the proceedings of Boone County Court, and altering the time of holding Circuit Courts in certain Counties.*

Approved December 24, 1805.

The county court of Boone had sat on days not authorized by law: this act legalized their proceedings, and altered the times of holding the circuit courts in the counties of Harrison, Campbell, Boone, Pendleton, Adair, and Wayne.

## CHAPTER CCCII.

*An ACT to amend an act entitled "an act amending certain Penal Laws, and making further provisions for the regulation of the Penitentiary."*

Approved December 24, 1805.

See Chap. 35, of this Vol.

Duty enjoined  
on clerks of ex-  
amining courts,  
&c.

SECTION 1. *BE it enacted by the general assembly,* That it shall be the duty of the clerks of the examining courts to transmit to the clerks of the circuit courts, instead of the clerks of the district courts, a statement of all the expenses attending the apprehension, guarding, maintenance and examination of any prisoner, in the manner and form prescribed by the first section of the act entitled "an act amending certain penal laws, and making further provision for the regulation of the penitentiary." And whenever a prisoner shall be convicted in any circuit court, it shall be the duty of the clerk of such court, to transmit to the agent of the penitentiary, by the sheriff who conveys the convict, such statement of the reparation and certificate of expenses, in the manner and form as the clerks of the district courts are required by the said first section of the said recited act; and such sheriff shall lodge with the agent, instead of the keeper of the penitentiary, a certificate of the expenses attending the removal of the convict to the penitentiary. And in case any clerk or sheriff aforesaid, shall fail to comply with the duties hereby enjoined on him, he shall be liable to the same fine and penalty as is imposed by the said first section of the before recited act.

Part of the former act repealed.

Sec. 2. *Be it further enacted,* That so much of the third section of said recited act, as directs that should it appear at the expiration of the time for which any convict shall have been sentenced, that any balance remains in his favor, it shall be appropriated to his use, in

such manner as the inspectors shall deem most advantageous, shall be, and the same is hereby repealed; and where any such balance may appear, it shall be paid by the agent into the public treasury.

1805.

Sec. 3. *Be it further enacted*, That so much of any law as places the agent under the control or direction of the keeper, be, and the same is hereby repealed: and in future it shall be the duty of the watchmen to act as assistants to the keeper, under the direction of the board of inspectors; and the number of inspectors shall hereafter consist of four, besides the governor.

Agent, watchmen, &amp; number of inspectors.

Sec. 4. *Be it further enacted*, That it shall be the duty of the keeper to prevent every relation or connection of a convict, or any other person who may be permitted to visit the jail and penitentiary within the walls, to converse with or mix among the convicts, except in his immediate presence. And the said keeper shall also prevent any two or more of the convicts from conversing, sleeping, or in any manner associating together, except when the nature of their employments may require it.

Duties enjoined on the keeper.

Sec. 5. *Be it further enacted*, That if any person or persons who shall hereafter be guilty of stealing a hog, shoat, or pig, or any goods or chattels, under the value of four dollars, and being thereof convicted, shall be punished by stripes, not exceeding thirty-nine, on his or her bare back, at the public whipping post, the number of stripes to be ascertained by the jury; and such person shall also pay the costs of the prosecution, and shall be committed to the jail of the county, there to remain until the same are paid: *Provided, however*, that if the said prisoner shall remain in jail ten days, and will then make oath before a justice of the peace, that he or she is unable to pay the costs, he or she shall be discharged; nevertheless an execution may from time to time issue for such costs against the estate of such prisoner.

Punishment for hog stealing, &amp; petty larceny under 4 dollars.

Sec. 6. *And be it further enacted*, That if any person or persons who shall be guilty of stealing a hog or hogs, above the value of four dollars, and being thereof convicted, shall undergo a confinement in the jail and penitentiary house, any number of years not more than four nor less than two years.

For hog stealing, above 4 dollars.

Sec. 7. *And be it further enacted*, That the 17th section of the act to amend the act entitled "an act to amend the penal laws of this commonwealth," and every

Parts of former acts repealed.

1805.

law which directs the punishment of simple larceny, under the value of four dollars, by confinement in the penitentiary house, shall be, and is hereby repealed.

Per cent. allowed to the keeper.

Sec. 8. *And be it further enacted*, That the keeper of the penitentiary shall be entitled to five per cent. on all the monies earned by the convicts during the time of his continuance in office; which per cent. when ascertained, from fair settlement, he may be allowed to retain in his hands, in addition to his present allowance.

To commence.

Sec. 9. This act shall commence and be in force from its passage, but shall not affect any cause now depending in any court of this commonwealth, nor any crime already committed; but in all such cases the same proceedings and judgment shall be pronounced, as if this act had not been passed.

#### CHAPTER CCCIII.

*An ACT to authorise the apprehending Fugitives from Justice in certain cases.*

Approved December 24, 1805.

Preamble:

WHEREAS there has been of late years a great increase of fugitives from the justice of other states, in this commonwealth, and especially to the southern part thereof; and all provisions for apprehending and securing such persons, have hitherto proved ineffectual: for remedy whereof,

Fugitives from justice how to be proceeded with,

Sec. 1. *Be it enacted by the general assembly*, That whenever any person or persons may hereafter lodge information, upon oath, before any circuit judge, or assistant judge, of any circuit court, that any person within his jurisdiction, hath committed a felony, specifying the particular felony, and state and county in which any such felony was committed, within any of the United States, and that said person or persons hath fled from the justice of such state, it shall be the duty of such judge before whom such information is lodged, forthwith to issue his warrant, directed to some proper officer, to apprehend such fugitive; and upon the apprehending of such person or persons, said officer shall immediately return said warrant, and bring the prisoner before the judge awarding the same; and the said judge, upon return of said warrant, shall enquire into the truth

of the charge exhibited against such person or persons ; and if said judge shall be of opinion that such person or persons is actually guilty of the felony, and that he, she or they have fled from the justice of any other state, such judge shall, by his warrant, commit such person or persons to the jail of the county in which such person was apprehended.

1805.

Sec. 2. *And be it further enacted*, That the judge committing any such fugitive, shall immediately give the governor for the time being, notice of the apprehending and committing such person or persons ; and the governor, upon receiving such information, shall notify the executive authority of the state from which said fugitive hath fled ; and if such executive authority shall not, within four months, demand such fugitive, every such fugitive shall be discharged from custody.

Notice to be given to the governor, and his duty.

Sec. 3. *And be it further enacted*, That the jailor shall be allowed the same for committing and maintaining such fugitive, and the sheriff or constable the same for apprehending him, as is now allowed for committing, maintaining, or apprehending criminals, by the laws of this commonwealth, and to be paid in the same manner.

Allowances to jailors.

This act shall commence and be in force from its passage

To commence.

#### CHAPTER CCCIV.

*An ACT authorising the insertion of Advertisements in the Informant, printed at Danville.*

Approved December 24, 1805.

#### CHAPTER CCCV.

*An ACT to amend an act entitled "an act to appoint Commissioners to convey a certain Tract of Land to the heirs of Matthews Flournoy, deceased."*

Approved December 24, 1805.

Two additional commissioners were added by this act, who, with the others, or any three of them, were authorised to convey the land, in trust, to certain of the executors ; who, or any three of them, were authorised to convey it, by deed, to the several persons entitled, by any legal obligation, or the will of the decedent, to receive it.

1805.

## CHAPTER CCCVI.

*An ACT for the relief of George Reading.*

Approved December 24, 1805.

*BE it enacted by the general assembly,* That the further time of twelve months be allowed Gorge Reading to erect his slope on his mill-dam across the south fork of Licking.

This act shall be in force from its passage.

## CHAPTER CCCVII.

*An ACT concerning the New-Athens Seminary.*

Approved December 24, 1805.

Preamble.

WHEREAS it is represented to the present general assembly, that there is now established, in the county of Green, in the town of Greensburg, under the direction of private trustees, associated for that purpose, a seminary of learning (called and known by the name of the New-Athens Seminary) which is in a state of considerable prosperity; and whereas the trustees of the said seminary have petitioned this legislature for an act of incorporation, and a donation of the vacant lands of the commonwealth, as also the power of selling lands for the use of the seminary: therefore,

*The said*  
Trustees appointed and incorporated.

Sec. 1. *Be it enacted by the general assembly,* That the Rev. David Rice, A. M. Wakefield, James Allen, Robert Allen, Samuel Brents, James H. Rice, William Barret, Daniel Brown, John Moore, Thomas K. Slaughter, and Daniel White, shall be, and they are hereby constituted a body politic and incorporate, and called and known by the name of the Trustees of the New-Athens Seminary; and that they, or a majority of them, shall fix on the permanent seat of the same, in the said town of Greensburg.

Their power & privileges.

Sec. 2. *Be it further enacted,* That the trustees of the said seminary shall have perpetual succession, and a common seal, and are hereby invested with all powers and privileges that are enjoyed by the trustees of any seminary, academy or college in the commonwealth. A majority of said trustees shall be sufficient to make a board and transact all business. They, or a majority of them, shall from time to time fill up any vacancies which may happen by death, resignation, removal out of the

county, or otherwise; and may establish such rules and regulations as they may deem necessary for the proper government of the said seminary, not inconsistent with this act and the laws of the state.

1805.

Sec. 3. There shall be granted to the said trustees and their successors, for the use of the said seminary, six thousand acres of any vacant lands in the bounds of this state. And the trustees of the said seminary for the time being are hereby authorised and empowered, by themselves or agent, at any time within two years from the passage of this act, to cause to be entered and surveyed the quantity of land hereby allowed, and shall moreover cause a platt and certificate of each survey to be returned to the surveyor's office of the county in which such survey may be, to be recorded, and the same shall be returned to the register's office of this state; and the register shall (without any fee) receive the platts and certificates, and issue grants as in other cases; and the lands so patented shall be vested in the trustees of the said seminary, and their successors, for ever, and the lands shall be free from taxes so long as they shall remain the property of the said seminary.

6000 acres of land granted to them, & how to be entered & surveyed.

Sec. 4. That it shall be lawful for the trustees of the said seminary, or a majority of them, to sell the lands hereby granted, or so much thereof as they may deem expedient for the purpose of procuring a suitable lot or piece of ground for the seat of the said seminary, for erecting their public buildings, purchasing a library and philosophical apparatus. It shall be left wholly in the direction of the trustees, what subjects shall be taught in the said seminary. The observance of rules of morality may be enforced in the said seminary; but no particular religious principles enjoined or attempted to be impressed on the minds of the students.

May sell their lands, and for what purpose.

Rules of the seminary.

*Provided, however,* that the said trustees shall not be permitted to locate said land in that tract of country to which the Indian title has been or may be extinguished by treaty; nor shall they possess power to sell more than one half of the land hereby granted them.

Provido as to the tract of country where the land may be entered.

*Provided, however,* that nothing in this act shall be so construed as to allow any more land to the said seminary than six thousand acres, by any law whatever.

Provido as to the quantity.

This act shall commence and be in force from and after the passage thereof.

To commence.

*The mistake is in the  
Bill*

1805.

## CHAPTER CCCVIII.

*An ACT concerning the Secretary of this Commonwealth.*

Approved December 24, 1805.

Preamble.

WHEREAS it appears to the legislature that the office of secretary for this commonwealth is of great importance, and requires great attention and much labor, and it is deemed expedient that the secretary shall be authorised to employ an assistant at his own expense, for whose conduct he shall be responsible; and it also seeming to the legislature that the salary annexed to that office is not equal to the services thereof, or in proportion to the salaries annexed to other offices: wherefore,

Salary.

Sec. 1. *Be it enacted by the general assembly,* That in lieu of the salary at present payable to the secretary of this commonwealth, he shall be authorised to receive, for every year, the sum of six hundred dollars, quarterly, out of the treasury, as heretofore.

May employ an assistant under certain restrictions.

Sec. 2. *And be it further enacted,* That it shall be lawful for the secretary, with the assent of the governor, to employ an assistant, at his own proper costs and charges; which assistant, in case of indisposition, or necessary absence of the secretary, shall do the business in the name of the secretary, for which the secretary shall be as responsible as if done by himself.

To commence. This act shall commence and be in force from and after the first day of January next.

## CHAPTER CCCIX.

*An ACT preventing Justices of the Peace from acting as Attornies at Law in the Courts to which they belong.*

Approved December 24, 1805.

An act of 1748 prohibited it under the penalty of 10*l*. for each offence.

Certain persons prohibited from acting as attornies at law, in certain counties.

SECTION 1. *BE it enacted by the general assembly,* That no justice, clerk or deputy clerk of any county court, clerk or deputy clerk of any circuit court, while he continues to act as such, shall act as an attorney at law in the county court or circuit court to which he may belong, on any pretence whatever.

Penalty.

Sec. 2. Any justice of the peace, clerk or deputy clerk, who shall offend contrary to the provisions of this

*B. County*

*act is in violation of*  
*1805*



#### XIV. YEAR OF THE COMMONWEALTH.

305

act, shall, beside being liable to impeachment or removal from office, for every action, suit, motion, cause or controversy in which he shall appear as an attorney at law in the said county or circuit court to which he may belong, forfeit and pay one hundred dollars, recoverable by action of debt in any court of competent jurisdiction; one half to the use of the commonwealth and the other half to the use of the party suing therefor; or the penalty aforesaid may be recovered on a presentment of a grand jury, in the circuit court of the county in which the offence may be committed, for the use and benefit of the commonwealth; and shall moreover be disqualified from acting as an attorney at law in consequence thereof, but his license as such shall, upon conviction, become void.

1805.

How recover-  
ble.

*The sum  
of*

This act shall commence and be in force from and after the passage thereof. To commence

#### CHAPTER CCCX.

*An ACT authorising the Executors of the Reverend John Gano, deceased, to sell a certain part of a Tract of Land.*

Approved December 24, 1805.

He had by his will directed 100 acres of land to be sold from the west end of his tract; but, by a mistake in drawing his will, it was expressed from the east end; which was likely to destroy the provision made for his widow. The legatees joining with the executors in a petition to have the mistake rectified, it was done by this act.

#### CHAPTER CCCXI.

*An ACT for the benefit of the late Sheriff of Ohio County.*

Approved December 24, 1805.

*BE it enacted by the general assembly,* That the auditor of public accounts allow, and he is hereby directed to issue a warrant to the late sheriff of Ohio county, for the sum of \$ 20 85 5, the half commission due on an execution for \$ 1929, issued at the instance of the commonwealth against the estate of Philips Caldwell.

This act shall be in force from its passage.

VOL. III.

2 P

1805.

## CHAPTER CCCXII.

*An ACT authorising Thomas Tunstall to erect a Bridge across the Kentucky River.*

Approved December 25, 1805.

He was authorized to build a bridge across the Kentucky river, from the west end of Montgomery street, to his land on the opposite side of the river, subject to the same rules, regulations, emoluments, and penalties, as John Pope was—*Vide* Chap. 291, of this Vol.

## CHAPTER CCCXIII.

*An ACT to procure a Statement of the Monies due to this Commonwealth for the sale of her Lands, and for other purposes.*

Approved December 26, 1805.

See the preface to Chap. 220, of Vol. I.

Preamble:

WHEREAS very considerable sums of money are now due to this commonwealth for the sale of lands, large quantities of which have been accumulated by speculators, who, availing themselves of the forbearance of the legislature, and the indulgence from time to time given and designed for the indigent and needy only, withhold what they owe, and are thereby enabled to continue their speculations upon money which ought to be paid into the public treasury, and it is unjust that what was intended to create a fund for the public exigencies, should be enjoyed by a few: to the end, therefore, that the burthens of the community may be alleviated, and that an honest compliance with the terms upon which the vacant lands have been bought and are held, may be enforced—

Duties assigned to the auditor of public accounts.

Sec. 1. *Be it enacted by the general assembly,* That the auditor of public accounts be, and he is hereby directed to cause to be made out, with all practicable dispatch, an account shewing the aggregate of what is now owing, and also of what will hereafter become due to the state for the lands acquired, or that may hereafter be acquired under the several acts of assembly “for the relief of settlers south side of Green river,” for encouraging and granting relief to settlers, and for settling and improving the vacant lands of the commonwealth, and the several acts amendatory and explanatory thereof; and also distinct accounts exhibiting what has become and will be due upon each certificate, whether

granted by the commissioners or county courts, at the several periods herein after mentioned, viz. On the first day of November in each of the following years, to wit: 1805, 1806, 1807, 1808, 1809, and 1810, and what has been paid upon such certificate, and what part of the original purchase money on each of these several days will remain to be paid. And in order to enable the auditor to comply with the foregoing requisitions, he may, and the register of the land-office is hereby directed to permit him to have access to the books and proceedings of the different boards of commissioners, to the several lists of certificates granted by the county courts, and transmitted by their clerks to the register, and to such other documents and records in his office as may assist the auditor in raising the account aforesaid. And the treasurer is required to permit the auditor to have access to such books in his office, or to furnish him with such statements as may be necessary to complete the account aforesaid; and to the end aforesaid, the auditor is required to obtain from the several clerks of county courts, and the surveyors of this commonwealth, statements shewing the number of certificates granted, or to be granted by their respective courts, and the number of entries made, or to be made, in the several offices of such surveyors, and as particularly describing the said certificates and entries as the auditor may direct; and any clerk or surveyor refusing or failing to comply with such requisition of the auditor, shall forfeit and pay to the commonwealth the sum of one thousand dollars, to be removed for by the auditor in the general court, upon ten days previous notice. And each clerk or surveyor furnishing such statement, shall be entitled to three cents for each certificate or entry, a statement of which shall be furnished as aforesaid, and for which the auditor shall issue his warrant, payable out of any money in the treasury.

Sec. 2. *Be it further enacted*, That no certificate shall be granted for or removed upon any land, the Indian title to which may have been extinguished, since the year 1794, or may hereafter be extinguished by treaty or otherwise, nor shall any such land, or any part thereof, be appropriated in any way whatsoever, until the future order of the legislature: *Provided, however*, That nothing herein contained shall be so construed as to le-

1805.

He is to have access to the records in the register's office.

Also to those in the treasurer's office.

Statements to be obtained from clerks of county courts & surveyors.

Penalty on the clerks and surveyors for a failure, & how to be recovered.

Allowances to the clerks and surveyors.

Certificates not to be granted for, or removed on certain lands.

Provido.

1805.

Certain claims  
deemed illegal  
and void.

County courts  
prohibited from  
granting certi-  
ficates, & when  
Regulations to  
prevent im-  
positions.

galize any original or removed certificate which may now be laid upon any land contained within such Indian boundary, all which claims being hereby deemed illegal and void.

Sec. 3. *And be it further enacted*, That from and after the first day of March next, no county court in this commonwealth shall grant any certificate for settlement or other right; and to prevent any imposition being practised on the county courts as aforesaid, it shall be necessary for the applicant to prove by three disinterested witnesses, that he or she is actually living on the land intended to be taken, and has lived there with his or her family, household furniture and personal property, at least one month before making such application, and that he or she is a person of good fame: *Provided nevertheless*, that no certificate shall be granted to any bachelor or female other than a widow.

To commence. This act shall be in force from and after its passage.

#### CHAPTER CCCXIV.

*An ACT authorising an additional number of Justices of the Peace in certain Counties.*

Approved December 26, 1805.

*BE it enacted by the general assembly*, That the following number of justices of the peace be allowed the counties hereafter mentioned, in addition to the number now allowed by law, that is to say, the county of Knox four, the county of Green two, the county of Pulaski two, the county of Christian two, the county of Gallatin two, the county of Pendleton one, the county of Adair two, the county of Fayette two, the county of Hardin two, the county of Bourbon two, the county of Bullitt one, the county of Ohio one, the county of Montgomery two, the county of Madison one, the county of Clarke two, and the county of Jefferson four.

This act shall be in force from its passage.

## CHAPTER CCCXV.

1805.

*An ACT to amend an act entitled "an act to amend and reduce into one the several acts establishing a permanent Revenue, and for other purposes."*

Approved December 26, 1805.

See the preface to Chap. 10, of Vol. 1.

SECTION 1. *BE it enacted by the general assembly,* That in entering lands for taxation the following rules shall be observed; No person shall enter two or more tracts held by separate purchases or surveys (although they may adjoin) as one tract or quantity; if the greater part of a tract shall be superior in quality to second rate, it shall be denominated first rate; if the greater part of a tract be not superior in quality to second rate, but superior to third rate, it shall be denominated second rate; if the greater part of a tract be inferior to second rate, it shall be denominated third rate; any tract of the quality of which the owner has no knowledge, and can give no information, shall be entered as second rate land. And to ascertain the criterion by which first rate land is to be known, it is hereby declared that the general quality of the lands about the following places is considered first rate, to wit: Flemingsburg, Washington in Mason county, Cynthiana, Paris, Mountsterling, Winchester, Lexington, Georgetown, Versailles, Nicholasville, Richmond, Lancaster, Stanford, Danville, and Beargrass.

Rules and rates by which land is to be entered.

Criterion.

Sec. 2. *Be it further enacted,* That the clerks of the county courts, after comparing and certifying the list or books of the commissioners of taxable property, as directed by law, shall deliver one copy thereof to the commissioner, to be transmitted to the auditor as heretofore, one other copy he shall keep in his office, as directed by law, and the other copy he shall keep in his office until the sheriff or collector of the tax shall have given bond and security for the collection of the revenue for the year in which such list or book was taken.

Commissioners' books, how to be distributed.

Sec. 3. The sheriffs and collectors of the revenue shall respectively settle for the revenue of which they may have the collection, on or before the 15th day of October, annually; and on failing so to do, shall be liable to pay at the rate of eighteen per centum per annum on the amount unpaid, from said day until the same is paid.

Revenue, when to be accounted for.

Penalty on sheriffs, &c.

1805.

Lifts of insol-  
vents, how and  
when to be made  
out & returned.

Sec. 4. Every sheriff and collector shall make out, on oath, a list of all insolvents, and of such persons as may have removed out of the county with their property, stating therein the names of the parties, and the taxable property each held, as particularly and in the form the same is entered in the commissioner's book, and whether he or she is insolvent or removed, and if removed, to what county, if known, and produce the same to his county court; which list it shall be the duty of the court to examine and strike out the names of such persons as either of them may know not to be insolvent or removed, and being approved by the court and certified by their clerk, shall be produced by such collector or sheriff to the auditor of public accounts, on or before the first day of December, annually; for which list such sheriff or collector shall be entitled to credit; but if the same is not produced by said time, no credit shall ever thereafter be allowed therefor.

Proceedings a-  
gainst sheriffs,  
&c. failing to  
pay revenue.

Sec. 5. *And be it further enacted;* That if any sheriff or collector of revenue shall not on or before the said fifteenth day of October, annually, obtain from the auditor of public accounts, a *quietus* in full for all monies then due from him, it shall be the duty of the auditor of public accounts to move the general court on the third or any subsequent day of their next term, for judgment against such sheriff or collector, and his security or securities, for the amount due from him; and a memorandum shall be lodged by the auditor with the clerk of the general court, on or before the third day of the term, mentioning what sheriffs and collectors he means to move against, and the days the motions are to be made against each; and the said court shall proceed and enter judgment for what may appear unpaid against such sheriff or collector, and his securities, as heretofore directed by law on motions, except that no notice of any kind shall be required, and except that such judgments shall be for the principal sum due, with an interest at the rate of eighteen per centum per annum, from the time the same become due till paid, in lieu of the damages and interest heretofore directed by law; but nothing in this act contained shall prevent a sheriff or collector from appearing and making any defence which he could make before the passage of this act: and if the auditor shall not make such motion at the first court after such failure,

he shall give notice as heretofore to such sheriff or collector, before he moves for such judgment. If any clerk shall fail to pay into the treasury any money by him payable there, on or before the time required by law, the auditor of public accounts shall, on the third or any subsequent day of the next May term of the general court, move for judgment against such clerk and his securities, in the same manner prescribed by this act for motions against sheriffs; and the like proceedings shall be had, and judgment rendered, with the like per cent. per annum, as directed herein against sheriffs: and if such motion shall not be made at the term aforesaid, notice shall be given as heretofore to such clerk and his securities, before judgment shall be had.

1805.

Against clerks  
failing to pay  
tax, &c.

And to ensure the payment of public monies by sheriffs and collectors of the revenue,

Sec. 6. *Be it further enacted*, That the commonwealth, from and after the entering into bond for the collection of the revenue, shall have a lien for the payment of such revenue, on all the lands and slaves, and all interest, legal or equitable, in them, which such sheriff or collector then may have, or may acquire in them or either of them until he obtains his *quietus* in full of such revenue.

Lien on lands  
& slaves, when  
it attaches.

Sec. 7. It shall be the duty of the auditor of public accounts, at the time prescribed by law, to lay before the general assembly an estimate of the annual expenditures of the government, and of the sums become payable in each year, with the sums paid, the sums unpaid, and the probable defalcations in each branch of the revenue.

Duties enjoined  
on the auditor.

This act shall commence and be in force from and after its passage: To commence:

#### CHAPTER CCCXVI.

*An ACT authorising John Brown to erect a Bridge across the Kentucky River.*

Approved December 26, 1805.

WHEREAS it is represented to the present general assembly, that the erection of a bridge across the Kentucky river, at Frankfort, will be of great public utility; and that John Brown will undertake it, if proper encouragement is given by the legislature: therefore,

Preamble.

Sec. 1. *Be it enacted by the general assembly*, That the said John Brown, or his assigns, his or their heirs

1895. or legal representatives, be, and he or they are hereby authorised to erect a bridge at Frankfort, across the Kentucky river, from his, the said Brown's, land, above High street, on the north side of said river, upon the terms and conditions hereafter mentioned, to wit: First, that the same shall be completed within two years from and after the first day of September next—Secondly, that it shall not in any manner injure the navigation of said river—Thirdly, that the said Brown, or his assigns, &c. shall, within six months from the end of the present session, enter into bond with good and sufficient security, in the secretary's office, in the penalty of twenty thousand dollars, payable to the governor and his successors, conditioned for the payment of all such damages which may be sustained thereby by persons navigating the said river; on which bond, all and every person or persons navigating the same, who may be injured by the erection of such bridge, may bring suit and recover all damages they may have sustained thereby.

Scite of the bridge.

Conditions:

Additional security may be required.

Writs of ad quod damnum may be sued out.

Proceedings thereon.

Sec. 2. *And be it further enacted*, That the governor and his successors may, from time to time, require new and additional security from the owners and keepers of said bridge, whenever it shall appear necessary.

Sec. 3. *And be it further enacted*, That the said John Brown, or his assigns, his or their heirs or other legal representatives, may, if it shall be necessary, sue out one or more writs of *ad quod damnum* from the county court of Franklin, in the manner prescribed by law in case of application for leave to build water grist-mills, directed to the sheriff of said county, commanding him to empanel a jury of twelve disinterested men of the county, to estimate the value of so much land adjacent to the intended terminations of the said bridge, as may be deemed necessary for fixing the abutments thereof; which estimation being reported to the said court by the said inquest, shall be recorded therein, and shall vest in the said Brown, or his assigns, his or their heirs, or other legal representatives, the fee simple estate in and to the said lands, upon the payment or tender of the said estimated value to the original proprietor or proprietors or his or their agents.

Sec. 4. *And be it further enacted*, That the said Brown, or his assigns, his or their heirs or legal representatives, shall be entitled to demand and receive the following tolls, to wit:



#### XIV. YEAR OF THE COMMONWEALTH.

313

	C.	M.	
For every man or woman,	4	5	1805.
For every child above five years old,	4	5	Rates of tolls.
For every horse, mare or colt,	5		
For every waggon,	50		
For every cart,	37	5	
For every riding carriage with four wheels,	50		
For every riding carriage with two wheels,	37	5	
For every head of neat cattle,	2		
For every head of sheep, goats or hogs,	1		
For every hogshead of tobacco rolled or carried			
across, not being in a waggon,	25		

Sec. 5. *And be it further enacted*, That the said Brown, and all and every person or persons who may hereafter become the owners or keepers of the said bridge, shall be subject to such regulations and restrictions as the legislature may, from time to time, deem just and necessary; and the legislature hereby expressly reserve the right and power of altering or repealing all the rights and privileges hereby granted, whenever it shall appear to them just and expedient to do so.

Sec. 6. *And be it further enacted*, That when the said bridge shall be erected as aforesaid, immediate passage shall be given to all public messengers and expresses, whenever required, as long as the existence of the said bridge, without any tolls; also, on the days of election for representatives, senators, governor, lieutenant-governor and representatives to congress, the voters for said officers shall be on such days privileged to pass without any payment of toll whatever, to or from such elections; also, on days of mustering, under the laws of this commonwealth, the officers and soldiers who wish to pass for the purpose of attending said musters to perform militia duty, shall be also privileged to pass toll free.

This act shall be in force from and after the passage thereof.

#### CHAPTER CCCXVII.

*An ACT authorising the Register to make certain Conveyances, and for other purposes.*

Approved December 26, 1805.

SECTION 1. *BE it enacted by the general assembly*, That the register of the land-office be, and he is hereby

Register to make convey.

VOL. III.

2 Q

1805. authorised and empowered to make conveyances of lands sold by him or any former register for the payment of taxes due thereon to the commonwealth, to any original purchaser or assignee or assignees of the certificate given of the purchase made of the sales of non-residents' lands for taxes; in which conveyances shall be stated the name of the original purchaser, and the several assignments thereon.

ances in certain cases.

And whereas it is highly improper that the original title papers to lands in this state deposited in the register's office, should in any instance be placed in the power of persons who may be interested in their alteration or destruction:

Regulations respecting his office. Sec. 2. *Be it further enacted*, That the register shall not suffer any book or paper which shall have been or may hereafter be deposited agreeable to law in his hands or in his office, to pass into the hands of any person not legally entitled thereto; nor shall he permit any person, except his clerks, or such as shall be authorised by law or resolution of the general assembly, to have access to any press or other place in which such books or papers, or any of them, shall be placed for safe keeping.

Clerk in his office to take oath

Sec. 3. *And be it further enacted*, That before any clerk who may be employed by the register, shall be permitted to act as such in the said office, he shall make oath that he will faithfully discharge his duty, agreeably to law.

This act shall be in force from its passage.

#### CHAPTER CCCXVIII.

*An ACT to improve and keep open the Navigation of the Beech Fork of Salt River, and other Water Courses.*

Approved December 26, 1805.

Preamble.

WHEREAS it is represented to the present general assembly, that it would be of great utility and very beneficial to the inhabitants of the counties of Washington and Nelson, to clear out the obstructions to the navigation of the Beech fork of Salt river:

County courts to appoint overseers & for what purpose.

Sec. 1. *Be it enacted by the general assembly*, That the county courts of each of the counties aforesaid, shall appoint overseers to superintend the business of clearing out the Beech fork, in manner herein directed. The

county of Washington shall clear out all that part from Ferguson's mill to the mouth of Hardin's creek, and the island opposite the mouth thereof, by removing all fish-pots, all points of islands shrubbed, where it is deemed necessary, and limbs of trees cut, so that the said stream shall be clear of obstruction. The county of Nelson shall clear from the mouth of Hardin's creek to the mouth of the Beech fork in like manner.

1805.

Sec. 2. *And be it further enacted*, That if any person or persons shall in any manner put or fell any obstructions in the stream hereby directed to be opened, every such person or persons so offending, shall forfeit and pay the sum of two dollars for every twenty-four hours such obstruction shall continue, to be recovered before any justice of the peace or circuit court, having cognizance of the same.

Penalty on persons putting in any obstructions

Sec. 3. *And be it further enacted*, That it shall be the duty of the overseer or overseers to be appointed under this act, whenever they shall receive information of any obstruction in said stream, to call out such and so many hands allotted to them as will be sufficient to clear out such obstructions forthwith; and the said overseer shall have the power to call the hands together, allotted to work under them, under the same rules and regulations as is directed by law for working on roads, and the hands shall be subject to the same penalties for not attending, when called on, as hands are now by law for failing to work on roads; and the overseers shall be subject to the same penalties as in cases of highways; and the hands allotted to work on the stream aforesaid, shall be exempt from working on roads. All fines and forfeitures that shall arise under this act, shall go toward improving the same, hereby directed to be opened in each county in which the fine may arise, to be laid out under the direction of the overseer or overseers, who shall account to the county court once a year for all such monies by them collected and so laid out.

Duty of overseers.

Penalty on the hands called out

Penalty on the overseers.

Overseers to account to the county courts.

Sec. 4. *And be it further enacted*, That the overseer or overseers shall not call the hands allotted to them to work on said stream more than once a year, and that in the months of August or September, as it may best suit, unless in cases heretofore mentioned in this act. Nothing in this act contained shall be so construed as to contradict any part, or in any manner to interfere with

Regulations respecting overseers.

1805. the act authorising mills to be built on the Beech fork of Salt river, passed December 1802.

From where the Beech fork is to be kept open.

Sec. 5. *Be it further enacted*, That the navigation of the Beech fork shall be kept open by the county of Washington, agreeably to this act, as far up from Joshua Ferguson's mill as to the mouth of Pleasant run, and Chaplin's fork as far up as to Bullock's and Hill's mill, by the county of Nelson.

Respecting the building of dams.

Sec. 6. *Be it further enacted*, That where any dam for the purpose of building a mill on the said Beech fork, or either of the aforesaid branches thereof, shall have heretofore been erected, without any law therefor, the same shall be deemed a nuisance under this act, and shall be removable by the regulations therein contained, except the owner or owners thereof shall, within twelve months from the passage of this act, erect thereon slopes, as is directed by the act passed in 1802, authorising mills to be built on the Beech fork of Salt river.

Salt river deemed navigable, from where, & further regulations.

Sec. 7. *And be it further enacted*, That Salt river shall be deemed a navigable stream from its mouth up to the mouth of Ash's creek, and Brashear's creek from its mouth to the mouth of Guess's creek; and any fish-dam or other obstruction erected thereon, or on either of them, shall be deemed nuisances, and be removable by the regulations of this act; and every person or persons who shall hereafter erect any dam or dams thereon, for the purpose of building mills, shall build such dam or dams on the construction laid down in the act passed December 1802, authorising mills to be built on the Beech fork of Salt river, under the same fines, forfeitures, and penalties, as stated in the said recited act.

Rolling fork deemed navigable, from where & further regulations.

Sec. 8. *And be it further enacted*, That the Rolling fork of Salt river shall be considered navigable from Thomas Doran's mill to the mouth thereof, under the same rules and regulations that in this act is prescribed for the Beech fork; and the county of Washington shall clear out the same from the said Doran's mill to the mouth of Salt Lick creek; and the county of Nelson shall clear out the said Rolling fork from the mouth of Salt Lick creek, as far down as the mouth of Knob creek; and the county of Hardin shall clear out the said Rolling fork from the mouth of Knob creek down to the mouth thereof, all to be done under the regulations con-

tained in this act: *Provided, however*, that no person whatsoever, nor his or her hands, shall be compelled to work on any of the said water courses more than three days in one year, nor shall the overseers to be appointed under this act, be compelled to attend thereon more than three days in each year, besides the time taken up in warning in the hands allotted to them.

1805.

Sec. 9. *Be it further enacted*, That the Beech fork from Ferguson's mill to the mouth of Pleasant run, shall be deemed navigable so soon as the county court of Washington county shall think proper to have it cleared out agreeable to the regulations of this act, and no obstructions shall be put therein.

Beech fork  
deemed navi-  
gable, from  
where,

Sec. 10. *And be it further enacted*, That Joshua Ferguson shall, within twelve months from the passage of this act, erect a slope across his mill-dam sufficient to let boats pass; and in case of his failure, he shall forfeit and pay the sum of five hundred dollars, recoverable before any court having jurisdiction of the same, to be applied for the special purpose of erecting a slope across said dam. And it shall be the duty of the commonwealth's attorney for Washington circuit court to prosecute the same on information thereof.

Ferguson to e-  
rect a slope, &  
penalty on fail-  
ure.

Duty of attor-  
ney for the cir-  
cuit.

Sec. 8. *And be it further enacted*, That in case the said Joshua Ferguson shall have built his dam under the general law, he shall not be liable to the penalty aforesaid, or to the building of a slope at his own expense, but that in that case the county courts aforesaid shall cause the same to be built by a joint levy of their two counties.

Relative to  
Joshua Fergu-  
son.

#### CHAPTER CCCXIX.

*An ACT to legalize the proceedings of the County Courts of Jefferson, Washington, and Nelson, and for other purposes.*

Approved December 26, 1805.

The proceedings legalized, were, laying levies. The other purposes were, authorizing the county court of Jefferson to "have done and complete" a well on the public square in Louisville, and, by a majority of all the justices in commission, to provide for the payment of the same out of the county levy.

1805.

## CHAPTER CCCXX.

*An ACT concerning Attornies for the Commonwealth for  
Circuit Courts.*

Approved December 26, 1805.

*BE it enacted by the general assembly,* That an act making provision for the attornies for the commonwealth, passed December 27th 1803, which was continued in force for one year longer, by an act passed December the 19th 1804, shall be, and is hereby revived for one year longer from the passage of this act; and the provisions thereof shall be considered as obligatory on the different courts, for the term aforesaid.

This act shall be in force from its passage.

## CHAPTER CCCXXI.

*An ACT confirming the proceedings of the Circuit Courts  
of this Commonwealth, and for another purpose.*

Approved December 26, 1805.

WHEREAS a general court was not holden according to law in May last, in consequence whereof no allotment of the judges thereof was then made, among the several circuit courts of this commonwealth, and the said judges having nevertheless presided in the said circuit courts; and doubts existing whether they could have legally presided, or the said courts could have legally been holden:

Sec. 1. *Be it enacted by the general assembly,* That the proceedings of the several circuit courts of this commonwealth, shall be deemed as effectual, operative and obligatory, as if an allotment of the judges of the general court had been made at the last May term thereof, any law to the contrary notwithstanding.

Sec. 2. *Be it further enacted,* That whenever from any cause the judges of the general court shall fail to make an allotment of themselves among the several circuit courts, the last preceding allotment shall stand and be in full force until a new allotment shall be made.

This act shall commence and be in force from its passage

## CHAPTER CCCXXII.

1805.

*An ACT to lay off an Election Precinct in the County of Pendleton.*

Approved December 26, 1805.

*BE it enacted by the general assembly,* That all that part of the county of Pendleton lying in the following boundary, to wit: Beginning on the Campbell county line, where the Dry Ridge road crosses the same, running up the said ridge and including the inhabitants thereof to the Scott county line, thence with said line to Gallatin county line, with said line to Boone county, and from thence to the beginning, and shall be called and known by the name of Eagle creek precinct, and an election shall be held for the said precinct at the house of William Barns, by the sheriff of the county of Pendleton, or one of his deputies, at the same time and in like manner as elections are by law directed to be held; and the voters in the residue of the county of Pendleton, shall vote at the court-house of said county as heretofore. The county court of said county shall from time to time appoint judges and clerk to attend elections in said precinct, in like manner as the law directs in similar cases; and on failure of such court, the sheriff shall fill such vacancies. And the said judges, clerk and sheriff shall be entitled to the same allowance, to be paid in like manner, and subject to the same penalties as is directed by law in similar cases. The sheriffs attending each of the said elections in the said county of Pendleton, shall meet at the court-house of said county on Saturday next succeeding the close of the said election, to compare their respective polls, and after ascertaining by faithful addition and comparison the person or persons who are duly elected, shall give a certificate thereof to each person elected, and make return thereof in the manner prescribed by law.

## CHAPTER CCCXXIII.

*An ACT providing a summary mode of recovering Debts.*

Approved December 26, 1805.

SECTION 1. *BE it enacted by the general assembly,* Persons holding That when any person holding a bond or note for the di- a bond or note, rect payment of money, shall desire to put the same in how to proceed.

1805.

Petition.

suit, he may do so by filing it with the clerk of any circuit court holding jurisdiction thereof, together with a petition purporting as follows : " F. circuit, sct. A. B. plaintiff, states, that he holds a bond or note, as the case may be, on the defendant, C. D. in substance as followeth (here insert a copy of the bond or note) ; yet the said debt remains unpaid : wherefore he prays judgment for his debt, and damages for the detention of the same, together with his costs, &c. A. B."

If an endorsee, then, after reciting the bond, say, " On which is the following assignment or assignments, (recite the assignments) whereby the plaintiff hath become the proprietor thereof, of which the defendant hath had due notice."

Sec. 2. If he shall hold the bond or note as endorsee, then, after reciting the bond, say, " On which is the following assignment or assignments, (recite the assignments) whereby the plaintiff hath become the proprietor thereof, of which the defendant hath had due notice."

Copy of the petition & summons to be sent out, and served by the sheriff.

Sec. 3. A copy of the petition shall be sent out with a summons annexed thereto, requiring the defendant or defendants to appear and answer the said demand, on the third day of the succeeding term, which shall be executed by the sheriff, by delivering a copy of the petition and summons to the defendant, and each of them, if there be more than one.

Not to go to the rules.

Sec. 4. The petition and summons shall not go to the rules, but the proceedings shall be had in court, and shall be docketed to the third day.

Sheriff, &c. to note the day of executing it.

Sec. 5. The sheriff, or other officer, in his return, shall note the day or days on which it shall have been executed ; and whenever it shall appear therefrom, that it was executed ten days or more before the return day, judgment may be rendered the first term, subject to be continued for cause shewn ; but if the process shall not have been executed ten days before the return day thereof, a continuance shall be entered, unless a trial shall be had by consent of parties.

Continuance may be had for good cause.

No declaration necessary.

Sec. 6. The said petition shall stand in place of a declaration ; the defendant or defendants may appear and plead, and thence an issue may be joined, as in an action of debt, on such a bond or note ; but if the defendant or defendants shall not appear and plead, the plaintiff may take judgment similar to an office judgment, or at his option may take an interlocutory judgment and writ of enquiry, which, if practicable, may be forthwith executed and judgment rendered thereon : *Provided, however,* that if the defendant or defendants, at any time before

Office or interlocutory judgment may be taken if the defendant fails to appear.

Proviso.



#### XIV. YEAR OF THE COMMONWEALTH.

321

the writ of enquiry shall be executed, shall appear and plead to issue, the writ of enquiry shall be set aside.

1805.

Sec. 7. After a jury shall have passed, the acts of *jeofails* shall apply as in actions of debt heretofore.

Acts of *jeofails* when to apply.

Sec. 8. Nothing in this act shall prohibit any person who shall choose so to do, from suing in the ordinary way, as if this act had never passed.

Persons may sue in the ordinary way.

Sec. 9. The fee to the sheriff for delivering a copy of the petition and summons, shall be the same as for executing a *capias* and taking a bail bond. The fee to the clerk for copying the petition, shall be fifty cents; and for the residue, the like fees as for similar services.

Sheriff's fee.

Clerk's fee.

#### CHAPTER CCCXXIV.

*An ACT providing for the payment of the carriage of such Public Documents as may be transmitted to the Executive of this State.*

Approved December 26, 1805.

*BE it enacted by the general assembly,* That the auditor be, and he is hereby authorised, on the requisition of the governor, to issue his warrant on the treasurer for any sum that may be necessary to discharge the carriage of any books, papers, or other articles, transmitted, on the public account, to the executive of this state, from other states or governments; and such warrants shall be paid out of any monies that may be in the treasury.

This act shall commence and be in force from the passage thereof.

#### CHAPTER CCCXXV.

*An ACT for the appropriation of Money.*

Approved December 26, 1805.

The ordinary appropriation bill.

#### CHAPTER CCCXXVI.

*An ACT to amend the several acts concerning Inspections, and for other purposes.*

Approved December 26, 1805.

See the prelection to Chap. 58, of Vol. I.

SECTION 1. *BE it enacted by the general assembly,* County court to That the several county courts in this commonwealth, in appoint inspect-

VOL. III.

2 R

1805. which inspections may be established, shall appoint two inspectors of beef and pork to each inspection, who shall take the same oath, and be governed by the same rules and regulations, and subject to the same penalties as is now required by law: *Provided, however,* that where an inspector of beef and pork has heretofore been appointed, it shall only be necessary to appoint one more in addition thereto.

Sec. 2. *Be it further enacted,* That every barrel, into which salted beef or pork is packed, shall consist of the following dimensions, and be of the following description: It shall be made of good seasoned white-oak staves, clear of sap, with four nails in each chine hoop, and three in each bulge hoop, and be sufficiently tight to retain the brine, and each barrel to have fourteen good strong sound hoops.

Sec. 3. *Be it further enacted,* That salted pork shall be divided into three classes: Pork of the first quality shall consist of the best pieces, free from legs, shoulders and heads, and be denominated "mess pork;" and the balance of the carcass, when salted and packed in barrels as aforesaid, shall be denominated "cargo pork;" and that "prime pork" shall consist of an equal proportion of each part of the carcass. And that salted beef shall also be divided into three classes, as follows: the rounds, loins, ribs, and breasts, of the first quality, shall be denominated "mess beef;" and that the remainder of the carcass, when salted and packed in barrels as aforesaid, shall be denominated "cargo beef;" and that "prime beef" shall consist of an equal proportion of each part of the carcass; and that both pork and beef shall be marked on the barrels as aforesaid.

Sec. 4. *Be it further enacted,* That any one of the said inspectors may perform the duties required by law.

Sec. 5. *Be it further enacted,* That inspections of flour, hemp, tobacco, beef and pork, be established at the following places, to wit: on the land of Cornelius Hoagland, in Hunter's bottom, on the Ohio, in Gallatin county, to be called and known by the name of Hoagland's inspection; on the Ohio, on the lands of Solomon Brandenburg, in the county of Hardin, to be called and known by the name of the Falling Spring inspection; at Messrs. Hilliard and Moss's mill, on Russell's creek, in Green county, to be called and known by the name

tors of beef and pork.

*Provide.*

Dimensions of barrels in which beef or pork is packed, & their descriptions.

How beef and pork shall be divided & classed, and barrels marked accordingly.

One inspector may act.

Sundry inspections established.

By the name of Hoagland's,

Falling Spring,

Russell's creek,

of the Russell creek inspection ; an inspection of beef and pork at Dorin's mill, on the Rolling fork, in Washington county, to be called and known by the name of <sup>1805.</sup> Dorin's,   
 Dorin's inspection ; an inspection of beef and pork at the present ware-house in the town of Warwick, in the county of Mercer, to be called by the name of the Warwick inspection ; an inspection of tobacco, hemp, flour, beef and pork, on the land of John Howard, at the mouth of upper Howard's creek, Clark county, to be known by the name of Howard's inspection ; an inspection of flour, hemp and tobacco, in the county of Madison, and on the lands of — Mosby, at the mouth of Drowning creek, on Kentucky river, and below the mouth of said creek, to be known by the name of Drowning creek inspection ; also an inspection of beef and pork, near the mouth of Silver creek, in Madison county, at Goggin's ware-house, to be known by the name of Goggin's inspection ; an inspection of beef and pork, at the Lewisburg inspections, on Green river, in the county of Muhlenburg ; an inspection of flour, hemp, tobacco, beef and pork, on the lands of Bartlett Graves, on Main Licking, at his mill, in the county of Campbell, to be known by the name of Graves's inspection ; an inspection of flour, hemp, beef and pork, at the mouth of Laurel river, in Knox county, on the lands of Richardson Herndon, to be known by the name of Herndon's inspection ; an inspection of beef, pork, flour, hemp and tobacco, in the county of Mason, on the Ohio, at Stoke Anderson's, to be known by the name of Anderson's inspection ; an inspection of tobacco, flour, hemp, cotton, beef and pork, in Warren county, on the east side of Bay's fork, on the land of Joseph Boone, near his saw mill, to be known by the name of Bay's fork inspection ; an inspection of beef, pork, flour, hemp, cotton and tobacco, at Messrs. Curd's and Edwards's mill, on Muddy river, in Logan county, to be called and known by the name of Curd's inspection ; an inspection of beef and pork, at Georgetown, in Scott county, on the lands of Josiah Pitts, to be called and known by the name of the Georgetown inspection ; an inspection of beef, pork, flour, hemp and tobacco, on the lands of Charles Dibrill, where he now lives, on Cumberland river, in Wayne county, to be called and known by the name of Dibrill's inspection ; an inspection of beef, Hartford,

1805. pork, hemp, flour and tobacco, on the lands of the representatives of the late Gabriel Madison, at the town of Hartford, on Rough creek, in the county of Ohio, to be called and known by the name of the Hartford inspection; an inspection of beef and pork, on Pond river, in the county of Henderson, at the Island ford, on the land of Jonathan Taylor, to be called and known by the name of Taylor's inspection; an inspection of beef, hemp, flour, tobacco and pork, on the lands of James Coleman, at the mouth of Beaver creek, on Main Licking, Harrison county, to be known by the name of Beaver creek inspection; also an inspection of tobacco, beef, pork, flour, hemp and cotton, at Jeffersonville, on Big Barren river, on the lands of John M'Neal, to be known by the name of M'Neal's inspection; an inspection of beef, pork, flour, hemp and tobacco, on the lands of Israel Hart, in Pulaski county, on Cumberland river, to be called and known by the name of Hart's inspection; an inspection of flour, pork, beef, hemp and tobacco, on the lands of William Able, at the mouth of Cedar creek, in Nelson county, to be called and known by the name of Cedar creek inspection; an inspection of tobacco, hemp, flour, beef and pork, on Red river, in Clarke county, at Clarke's and Smith's iron-works, to be called and known by the name of Red river inspection. And that the inspections heretofore established in the county of Logan, on Green river, Muddy river, and Red river, shall also be inspections of beef and pork; and the inspection established at Greensburg, in Green county, shall be an inspection of beef, pork, hemp and tobacco. All which inspections established by this act, shall be subject to the like rules and regulations as are provided by law, in regard to other inspections of the like kind in this commonwealth.

Sec. 6. *Be it further enacted*, That if any person or persons shall export from this state, any beef or pork, without being previously inspected according to this act, and an act entitled "an act establishing sundry inspections of beef and pork," or shall export any beef or pork after the same has been condemned by the inspectors, he or they so offending, shall, on due proof thereof, before any justice of the peace for the county where the offence is committed, forfeit and pay fifteen dollars per barrel, one half to be applied towards lessening the

1805.

Taylor's,

Beaver creek,

M'Neal's,

Hart's,

Cedar creek,

Red river,

Under former regulations.

Penalty for exporting beef or pork without inspection, or after it is condemned.

How recoverable and applied.

XV. YEAR OF THE COMMONWEALTH.

325

county levy, and the other half to the use of the informer.

1806.

This act shall commence and be in force on the first day of May next.

CHAPTER CCCXXVII.

*An ACT to amend the act entitled "an act concerning the Town of Cynthiana."*

Approved December 24, 1805.

SECTION 1. *BE it enacted by the general assembly,* That so much of the fourth section of the act entitled "an act concerning the town of Cynthiana," approved December 4th 1802, as gives to the trustees of said town the privilege to shut up certain streets and alleys in said town at discretion, shall be, and the same is hereby repealed.

Sec. 2. *And be it further enacted,* That it shall be the duty of the trustees of the said town to cause to be opened any street or alley within said town, which, under the authority of the said recited act, may have been shut: *Provided,* that no contract made between the trustees and any individual or individuals, shall be affected by this act.

This act shall commence and be in force from and after the first day of May next.

*the paper thereof*

November Session, 1806.

CHAPTER CCCXXVIII.

*An ACT erecting a new County out of the County of Lincoln.*

Approved November 14, 1806.

SECTION 1. *BE it enacted by the general assembly,* That from the first Monday in May next, all that part of Lincoln county, connected as followeth, to wit: Beginning on the Lincoln and Pulaski line, where, by running at right angles from it will just include in the new county, Joseph Dismukes, on the head of Indian creek;

1806.

thence a direct line to the mouth of Pine Lick creek ; thence to the great suck on Carpenter's creek, leaving Joseph M'Cormick's in the old county ; thence a direct line to the great road west of Carpenter's station, leaving George Carpenter in the old county ; thence to the head of Harris's creek ; thence to the great road at Charles Depeaw's, leaving him in the old county ; thence along the foot of the knobs with the said road to where the county line crosses the same, and with the county line between Mercer, Washington, &c. around to the beginning, shall form one distinct county, called and known by the name of Casey.

Sec. 2. The justices of the peace to be appointed in the said county of Casey, shall meet on the said first Monday in May next, at the dwelling house of James Swigate, and shall then proceed, after taking the necessary oaths of office, and a sheriff for the county having also qualified and complied with the other previous requisitions of his office before acting, the said justices, or any three of whom, if more shall not attend, shall proceed to form a court, and appoint a clerk agreeably to law and the constitution : *Provided, however,* that no person shall be appointed, either *pro tempore*, or permanently, who shall not obtain a majority of the justices present ; and that no person shall be appointed clerk, only *pro tempore*, who shall not obtain a majority of all the justices in commission in the said county, as well as the certificate from the judges of the court of appeals, required by the constitution.

Sec. 3. The county court of the said county shall be holden on the first Monday in every month, except in the months in which the circuit court for the same may be holden ; and may continue to sit as many days as may be necessary. And the circuit court for the said county of Casey, shall meet on the first Monday in August next, and on the first Monday in January, May and August in every year thereafter, at the same place where the county court for the same might sit ; and after taking the oaths of office prescribed for the assistant judges, the said court shall proceed to appoint its clerk, who shall be governed in the same manner therein as is herein prescribed with respect to the county court. And the said respective courts shall do whatever else may be necessary and required by law for their organization ;

and shall be governed, and possess the same powers, in like manner that the county and circuit courts do in this commonwealth, with their respective jurisdictions. The circuit court may, if necessary, continue to sit six days.

1806.

Sec. 4. *Be it further enacted*, That the county court justices and assistant judges for the county of Casey, shall, on the first Monday in May, at the said place of holding court, or some county court thereafter in said county, and at the place where court shall then meet, make choice and fix upon some place, the most suitable, convenient, and eligible in the county, for the seat of justice therein, having regard particularly to the most central, and also proper place for the same. And the assistant judges, who for that purpose are to be considered jointly with the county court, shall make oath in court that they will to the best of their knowledge and information, make choice of a place as is above directed: *Provided*, that a majority of the whole number of justices in commission, together with the assistant judges, shall concur in fixing on the permanent seat or place of holding courts in the said county. But the county court and assistant judges as aforesaid, a majority of the whole number concurring, may remove the place of holding courts in the said county, or continue to hold the same at the house of the said Swigate, until the place is fixed on for its permanent seat, and for one year thereafter, if they deem it necessary and proper.

Sec. 5. *Be it further enacted*, That the said county of Casey, until the next apportionment of representation in this commonwealth, shall form an election precinct to Lincoln county; and the qualified voters in the said county of Casey shall vote at the place of holding courts therefor at the election of a member for Lincoln, in the same manner as is required by law and the constitution: and the county court of Casey shall appoint two of its own body as judges of election. The sheriff of said county shall attend at the same time and place, to compare votes, as is required by the law establishing the Green river precinct. And so much of that law as fixes on Amos Hodges's to vote at, is hereby repealed.

Sec. 6. The courts in Lincoln shall have jurisdiction of all suits therein depending, when the said county commences, between any inhabitants thereof, award

1806.

process, and do whatever is necessary therein. And the sheriff or collector of Lincoln may collect all money fees at that time remaining unpaid, from any of the inhabitants of the said county, as if this law had not passed.

## CHAPTER CCCXXIX.

*An ACT authorising the Editors of the Western World, and Republican Auxiliary, to insert certain Advertisements in their papers.*

Approved November 15, 1806.

*BE it enacted by the general assembly,* That it shall and may be lawful for any advertisements which are required by law to be published in a newspaper, to be inserted in the *Western World*, printed at Frankfort, and the *Republican Auxiliary*, printed in Washington, Mason county; and the editor or editors of said papers shall be entitled to the same fees, and be governed by the like regulations, as other printers in this commonwealth: *Provided*, that nothing herein contained shall be so construed as to authorise the insertion in the *Western World* or *Republican Auxiliary* of such advertisements as are particularly required by law to be published in the paper of the public printer.

This act shall commence and be in force from and after the passage thereof.

## CHAPTER CCCXXX.

*An ACT to amend an act entitled "an act to amend and reduce into one the several acts concerning Constables, and authorising Coroners to summon a Jury."*

Approved November 15, 1806.

*Vide* Vol. I, Chap. 62, and the preface.

Preamble.

WHEREAS an act passed on the twenty-third day of December, in the year 1803, entitled "an act to amend and reduce into one the several acts concerning constables, and authorising coroners to summon a jury," is not sufficiently explicit, and is found inadequate to the purposes therein intended: for remedy whereof,

Constables,  
their commis-  
sions in certain  
cases.

Sec. 1. *Be it enacted by the general assembly,* That no constable shall be entitled to more than half commissions on any execution where the property is reple-



vied, or delivery bond is given and not complied with at the day of sale ; but shall be entitled to the commission heretofore allowed by law in cases where the money is collected. No person or persons shall be allowed to replevy for more than one month, where the amount of the execution issued by the justice shall be less than twenty-five shillings, exclusive of costs. 1806.

Replevy allowed in certain cases.

Sec. 2. *And be it further enacted*, That a constable shall have power to collect his own fees by distress, in the same manner sheriffs are allowed to do by law, or he may issue his fee-bills, and put them into the hands of the sheriff, or some other constable, who shall be compelled to receive, collect and account for the same, and shall have the same power to compel the payment by distress, that sheriffs now possess in case of other officers' fees. Constables' fees how to be collected.

All acts or parts of acts coming within the purview of this act, shall be, and are hereby repealed. Repealing Clause.

#### CHAPTER CCCXXXI.

*An ACT to repeal in part the several acts concerning Inspections of Beef and Pork.*

Approved November 22, 1806.

*Vide* Vol. I, Chap. 58, and the preface.

WHEREAS the several acts concerning the inspections of beef and pork have not answered the several purposes thereby intended, and are found to be injurious to the exportation of those articles :

*Be it therefore enacted by the general assembly*, That so much of the act passed December the 19th, 1804, establishing sundry inspections of beef and pork, and so much of the act to amend the several acts concerning inspections, and for other purposes, passed in the year one thousand eight hundred and five, as requires the inspection of beef and pork intended to be exported to any port or place within the jurisdiction of the United States, shall be, and the same is hereby repealed.

This act shall commence and be in force from the passage thereof.

## NOVEMBER SESSION,

1806.

## CHAPTER CCCXXXII.

*An ACT giving further time to return Platts and Certificates to the Register's Office.*

Approved November 22, 1806.

*Vide Vol. I, Chap. 38, and the prælection.*

*BE it enacted by the general assembly, That the further time of two years from and after the end of this present session of assembly, be allowed the owners of platts and certificates of survey, to return the same into the register's office, in which time, the register of the land-office shall receive all platts and certificates of survey, although not returned within the time limited by law, and such land shall not be considered forfeited or liable to forfeiture on that account.*

*This act shall commence and be in force from and after the passage thereof.*

## CHAPTER CCCXXXIII.

*An ACT altering the March Term of the Fayette Circuit Court.*

Approved November 22, 1806.

*BE it enacted by the general assembly, That the term of the Fayette circuit court now holden in March, shall be held in January, commence the first Monday thereof, and continue twenty-four judicial days, if the business thereof shall render it necessary.*

*Be it further enacted, That all continuances made, and recognizances, writs and process, returnable to the said March term, shall stand made and returnable to the said January term.*

*This act shall be in force from its passage.*

## CHAPTER CCCXXXIV.

*An ACT authorising Thomas Wand to build a mill on Green River, under certain restrictions.*

Approved November 22, 1806.

Preamble.

*WHEREAS it is represented to the present general assembly, that great advantages will result to the community at large, by permitting a mill to be built on Green river, at a shoal about half a mile below the mouth of Big Barren river; and whereas Thomas Wand hath*

petitioned the present general assembly for leave to erect a dam about two-thirds of the way across the said stream, to the edge of the natural channel at that place : therefore,

1806.

Sec. 1. *Be it enacted by the general assembly,* That it shall and may be lawful for the said Thomas Wand to extend a dam from the south bank of said river two-thirds of the way across the same, to the main channel at that place.

T. Wand allowed to erect a dam across Green river.

Sec. 2. That the said Thomas Wand shall, so soon as he begins to build his said dam, cause all the obstructions to navigation in the balance of the stream, to be removed, by cutting away logs in the river, or trees projecting over the same ; and shall constantly keep the said channel open and free from obstructions to navigation.

Duties enjoined on him.

Sec. 3. That the said Thomas Wand shall, before he begins to build the said dam, enter into bond with sufficient security, in the Logan county court, in the penalty of ten thousand dollars, payable to the governor for the time being, and his successors in office, conditioned that his said dam shall not obstruct the navigation of the said river, and that he will constantly keep the channel on the north part of said river free from all obstructions to navigation ; which bond may be sued on by any person injured, and shall not be void on the first recovery, but may be sued on as often as any injury may arise from the said dam.

To give bond, and for what.

Sec. 4. That the said Thomas Wand shall begin to build the said mill in three years from the date of this act, otherwise the privileges hereby granted shall be void ; and upon the said Thomas Wand's being convicted according to due course of law, by suit brought upon said bond in favor of any individual, his said dam shall thereafter be considered as a nuisance : *Provided,* that it shall be lawful for the legislature at any time to repeal the privileges hereby granted, when it shall be deemed necessary for the more convenient navigation of said river.

Restrictions.

This act shall commence and be in force from and after the passage thereof.

1806.

## CHAPTER CCCXXXV.

*An ACT to establish sundry Inspections of Flour, Hemp, and Tobacco.*

Approved November 26, 1806.

*Vide Vol. I, Chap. 58, and the prælection.*

*BE it enacted by the general assembly, That an inspection of tobacco, hemp, and flour, be, and is hereby established at the mouth of Jack's creek, on the land of Green Clay, in Madison county, to include the new set of stone ware-houses now built, to be called and known by the name of Jack's creek ware-house; an inspection of tobacco, hemp, and flour, on the lands of Christopher Greenup, below the mouth of Benson, on the west side of Kentucky, to be under the direction of the Frankfort inspectors, to be called and known by the name of the Benson inspection; an inspection of tobacco, hemp, and flour, on the lands of James Turner, at or near the mouth of Little Barren river, in Green county, to be called and known by the name of the Little Barren inspection; an inspection of flour, hemp, and tobacco, in the town of Vanceburgh, at the mouth of Salt creek, in the county of Mason, to be called the Vanceburgh inspection; an inspection of flour, hemp, and tobacco, at the mouth of Little Sandy, in the county of Greenup, to be called and known by the name of the Little Sandy inspection; and an inspection of flour, hemp, and tobacco, on Big Barren river, at the mouth of Glover's creek, to be called and known by the name of Glover's creek inspection; an inspection of flour, hemp, and tobacco, in the county of Lincoln, in the forks of Green river, at the junction of the south fork of said river, on the land located in the name of Henry Quarles, to be called and known by the name of the Green river inspection; an inspection of tobacco, hemp, and flour, at M'Coun's ferry, in the county of Mercer, on the lands of Samuel M'Coun, to be called and known by the name of M'Coun's inspection; also an inspection of tobacco, hemp, and flour, in the county of Woodford, at the mouth of Rough's run, on the land of Jeremiah Buckley, to be called and known by the name of Rough's run inspection; also an inspection of tobacco, hemp, and flour, in the county of Muhlenburg, on Green river, and on the land of John Randolph, to be called and known by the name of Randolph's inspection.*

XV. YEAR OF THE COMMONWEALTH.

333

This act shall commence and be in force from and after the passage thereof.

1806.

CHAPTER CCCXXXVI.

*An ACT authorising the insertion of Advertisements in the Mirror, printed at Russellville.*

Approved November 27, 1806.

BE it enacted by the general assembly, That it shall and may be lawful for any advertisement which is required by law to be published in a newspaper to be inserted in the Mirror, printed at Russellville, and the editor or editors of said paper, shall be entitled to the same fees, and governed by the like regulations as other printers in this commonwealth : *Provided*, that nothing herein contained, shall be so construed as to authorise the insertion in the Mirror, of such advertisements as are particularly required by law to be published in the paper of the public printer.

This act shall commence and be in force from and after the passage thereof.

CHAPTER CCCXXXVII.

*An ACT for the relief of the Sheriff of Logan County.*

Approved November 28, 1806.

He was allowed until the first of April to pay up half the revenue of 1805. To be moved against without notice, if he failed.

CHAPTER CCCXXXVIII.

*An ACT to amend the several acts for the endowment of Seminaries of Learning.*

Approved November 28, 1806.

SECTION 1. BE it enacted by the general assembly, That the further time of two years, in addition to the period allowed by the act of the last session, entitled "an act concerning the New-Athens seminary," be allowed the trustees of the said New-Athens seminary, to enter and survey the quantity of land granted by the said act, on any vacant lands in this commonwealth, not otherwise appropriated, except those lands acquired by the treaty of Tellico.

Further time allowed New-Athens seminary to survey its donation lands.

1806.

Trustees of cer-  
tain seminaries  
allowed to sell a  
part of the lands.

Sec. 2. *Be it further enacted by the general assembly,* That the trustees of the New-Athens seminary, and also the justices of the several county courts of counties in which academies have not been established, and for the benefit of which appropriations of land have been made, shall be allowed to sell one half of the land allowed them respectively, for the purpose of enabling them to locate, survey and patent their donation lands, for erecting their public buildings, purchasing books, philosophical apparatus, or for such other purposes as may be necessary for the use and benefit of the said institutions.

Recital.

*not in  
the roll*

And whereas by an act passed 1798, an academy was established in Lincoln county, called the Stanford academy, and the trustees thereof have failed to act, and no appropriation of land to the use thereof has been made: therefore, **I**

Trustees ap-  
pointed to Stan-  
ford academy,  
their powers &  
duty.

Sec. 3. *Be it further enacted,* That William Logan, Joseph Welch, Thomas Montgomery, Richard Gaines, Samuel Shackleford, James T. Worthington, George M'Roberts, William Davis, and Francis S. Reed, are hereby appointed trustees of the Stanford academy, with the same powers, and subject to the same restrictions and regulations which are applicable to similar bodies, under the laws of this commonwealth: and the said trustees and their successors, shall be allowed three years from the passage of this act, to cause to be entered and surveyed six thousand acres of any vacant and unappropriated land in this commonwealth, except the lands acquired by the treaty of Tellico: and the trustees of the Stanford academy may, if they deem it proper, sell one half of the land allowed to the said academy, for the purposes enumerated in the second section of this act, for the use and benefit of the Stanford academy: *Provided,* that a majority of the whole number of trustees shall be necessary to concur therein. And the trustees of the said academy may meet at such times and places as they think proper, possessing the power to expel members, fill vacancies, and do all things necessarily incidental to the institution, and which are agreeable to the law, and not repugnant to the powers of trustees to other academies.

No comment:

This act shall commence and be in force from its passage.

CHAPTER CCCXXXIX.

1806.

*An ACT providing for the Redemption of Land sold for Taxes.*

Approved November 28, 1806.

*Vide Vol. I, Chap. 10, and the prælection.*

SECTION 1. *BE it enacted by the general assembly,* That the sales of lands hereafter made for taxes, shall be subject to the right of redemption by the owner or owners, or any person in his, her, or their behalf, upon the terms and in the manner following: the redemption may be effected at any time within two years from the day of the sale of the particular tract proposed to be redeemed, by the payment of the amount of the tax, interest and charges for which the land was sold, with interest thereon, after the rate of 100 per cent. per annum, to be calculated from the day of the sale to the period of redemption, and by payment of the tax which may have accrued subsequent to the sale. The payment of the money shall be made to the treasurer, who shall grant a receipt therefor to the person making it, which shall be lodged with the auditor of public accounts, whose duty it shall be to deliver to the person redeeming, a certificate of his having deposited the said receipt in his office; and to raise an account of all the monies thus paid into the treasury for the redemption of lands sold as aforesaid; and the purchaser, his assignee or representatives, shall, upon application to the auditor, be entitled to a warrant upon the treasurer for the redemption money paid in for the particular tract redeemed.

Lands sold for taxes, may be redeemed in two years.

Subject to 100 per cent. interest, if sold to an individual.

Sec. 2. *And be it further enacted,* That all tracts of land exposed to sale, which shall not be sold to individual purchasers for the want of sufficient bids, shall be stricken off by the register or sheriff, as the case may be, to the commonwealth, subject, however, to the same right of redemption at any time within two years, by the owner or owners, or any person in his, her, or their behalf, by paying into the treasury the amount of the tax, interest and charges, for which the particular tract was sold, with interest thereon, after the rate of 50 per centum per annum, from the day of sale to the time of redemption, and by payment of the tax which may have accrued subsequent to the sale; and the person redeem-

For want of bids to be stricken off to the state.

But may be redeemed in like manner subject to 50 per cent. interest.

1806.

ing, shall obtain the same receipt from the treasurer, and certificate from the auditor, and the auditor shall raise a similar account as is herein before directed in the case of the redemption of lands bought by individuals.

This act shall commence and be in force from and after its passage.

---

#### CHAPTER CCCXL.

*An ACT for the relief of the Sheriff of Bourbon County.*

Approved November 28, 1806.

He was allowed until the last of March to collect the revenue of a part of his county.

---

#### CHAPTER CCCXLI.

*An ACT extending certain Terms of the Circuit Courts of Scott and Harrison.*

Approved November 28, 1806.

*BE it enacted by the general assembly,* That the circuit court for the county of Scott may sit twelve judicial days at their April term in every year, provided the business before them may require it.

And the circuit court for the county of Harrison shall sit twelve judicial days at their March term in every year, provided the business before them may require it.

This act shall commence and be in force from and after its passage.

---

#### CHAPTER CCCXLII.

*An ACT to amend an act for opening a Road from Greensburg to the Tennessee State Line, and for other purposes.*

Approved November 28, 1806.

*BE it enacted by the general assembly,* That the several county courts of the counties through which the road established by the before recited act may lead, shall have the same power, authority and jurisdiction, to alter or abolish any part of said road, in the same manner, and under the same rules and regulations as are provided in cases of roads established by orders of the county courts of this commonwealth: *Provided, however,* it shall be the duty of the several county courts, to



keep open a road leading from the one place to the other, mentioned in the before recited act.

1806.

This act shall be in force from and after the passage thereof.

CHAPTER CCCXLIII.

*An ACT authorising and directing the Surveyor of Christian County to record certain Platts and Certificates of Survey.*

Approved December 2, 1806.

WHEREAS it is represented to the general assembly, that there were a number of platts and certificates of survey made by John Campbell, late surveyor of Christian county, and his deputies, which were not recorded at his death :

Sec. 1. *Be it therefore enacted by the general assembly,* That the present surveyor of said county be, and he is hereby authorised and directed to receive, examine and record all such platts and certificates, which shall be as valid as if done by the said John Campbell.

Sec. 2. *Be it further enacted,* That for recording each platt and certificate aforesaid, the surveyor shall be allowed the sum of fifty cents, to be paid by the party requiring the same.

This act shall be in force from its passage.

CHAPTER CCCXLIV.

*An ACT to establish an Inspection of Tobacco, Hemp, and Flour, on the Lands of Newton Curd, in Jessamine County.*

Approved December 2, 1806.

*Vide* Vol. I, Chap. 53, and the Notes.

*BE it enacted by the general assembly,* That an inspection of tobacco, hemp, and flour, be, and is hereby established in Jessamine county, on the lands of Newton Curd, about one half mile below the mouth of Dick's river, to be called and known by the name of Newton's inspection, which shall be subject to the same rules and regulations as other inspections of the like kind are by law.

This act shall commence and be in force from and after the passage thereof.

1806.

## CHAPTER CCCXLV.

*An ACT erecting a new County out of the Counties of  
Madison, Knox, and Floyd.*

Approved December 2, 1806.

Boundary.

*Months*

SECTION 1. *BE it enacted by the general assembly,*  
That from and after the first day of April next, all that  
part of the counties of Madison, Knox, and Floyd, that  
is included in the following bounds, to wit: Beginning  
on the Kentucky river, midway between the mouth of  
Ross's and Sturgeon creeks; thence along the ridge  
that divides the waters of Sturgeon from those of Ross's  
and Station Camp creeks to the dividing ridge between  
the waters of Kentucky and Rockcastle waters; thence  
along said ridge to the head of Horse Lick creek; thence  
down the said creek to Rockcastle; thence down Rock-  
castle to the state road leading from Madison court-  
house to the Cumberland Gap; thence along the said road  
to Langford's road leading to Goose creek salt-works;  
thence with the same to Rockcastle; thence up Rock-  
castle to the head; thence along the dividing ridge be-  
tween the waters of Cumberland and Kentucky to a  
point from which by running due east will pass by Col-  
lin's fork of Goose creek, midway between Outlaw's  
salt-works and Peter Hammond's; thence a course to  
strike the ridge between Cumberland and Kentucky at  
the War Gap; thence with said ridge to a point at which  
running north-west will strike the mouth of Lott's  
creek; thence up Lott's creek to the head; thence with  
the ridge dividing the waters of Kentucky from Licking,  
to the head of Quicksand; thence down Quicksand to  
the Kentucky river; thence down the Kentucky river  
to the beginning; shall be one distinct county, to be  
called and known by the name of Clay.

When courts to  
be held.

Sec. 2. The courts of the said county of Clay shall  
be held on the second Monday in every month, except  
the months in which circuit courts are held; and the  
said circuit courts shall be held on the second Monday  
in the months of April, July, and October, annually;  
which may continue six days each term, if necessary, in  
such manner as is provided by law in respect to other  
circuit courts.

Duty of the  
justices.

Sec. 3. The justices of the peace for the said county  
of Clay, shall meet at the house of Robert Baker, on a

court day, after the said division shall take place, and having taken the oaths required by the constitution of the United States and of this state, and the sheriff being also qualified according to law, shall proceed to appoint and qualify a clerk; which several oaths may be administered by either of the justices in the commission of the peace, and by him to the rest of the court.

1806.

Sec. 4. A majority of the justices in the commission of the peace, shall concur in fixing the permanent seat of justice for said county. Duty of sheriff.

Sec. 5. It shall be lawful for the sheriffs of the respective counties of Madison, Knox, and Floyd, to make distress for any public dues or officers' fees unpaid by the inhabitants of said county of Clay, at the time such division shall take place, and they shall be accountable in like manner as if this act had not been passed.

Sec. 6. The courts of Madison, Knox, and Floyd, shall have jurisdiction over all actions and suits at law or equity, depending in their respective counties at the time of said division, and shall try and determine the same, issue process and award execution thereon.

Sec. 7. All that part of Madison county and tract of territory on the waters of the Kentucky river above the said county of Clay, shall be annexed to, and added to the county of Floyd.

Sec. 8. *Be it further enacted*, That the circuit court and county courts for said county of Clay, shall be held at such place within said county as the said courts may respectively deem proper, until the public buildings shall be erected at the permanent seat of justice, after which said courts shall be held in said buildings.

This act shall be in force from the passage thereof.

#### CHAPTER CCCXLVI.

##### *An ACT for the division of Mason County.*

Approved December 2, 1806.

SECTION 1. *BE it enacted by the general assembly*, That from and after the first day of April next, all that part of the county of Mason included in the following bounds, to wit: Beginning on the Ohio river, at the mouth of Crooked creek; from thence on a straight line to the fork of Cabin creek; from thence on a direct line

Boundary.

*For As*

1806.

to the lower corner of Fleming county, on the north fork of Licking, up the same, and with the Fleming county line to Greenup county line, with the same to the Ohio, and down the same to the beginning, shall be one distinct county, and called and known by the name of Lewis.

When courts to  
be held,

Sec. 2. After the said division shall take place, the courts for said county of Lewis shall be held on the third Monday of every month, except the months in which the circuit courts are held; and the circuit courts shall be held annually in the months of April, July, and November, in such manner as is provided by law in respect to other counties in this commonwealth.

When justices  
to meet and ap-  
point a clerk.

Sec. 3. The justices named in the commission of the peace for the said county of Lewis, shall meet at the house of Oke Hendrickson, on the first court day after said division shall take place, and having taken the oaths prescribed by law, and the sheriff being duly qualified, the court shall proceed to appoint and qualify their clerk.

Commissioners  
to fix the seat  
of justice.

Sec. 4. *And be it further enacted*, That William P. Fleming, Cornelius Hall, David Bailengall, William Woodward, and William Lowry, or any three of them, shall, and they are hereby appointed commissioners to meet at Oke Hendrickson's on the first Monday in April next, or as soon thereafter as may be, who, being first duly sworn by some justice of the peace for said county, shall proceed to view and fix upon the proper place for the permanent seat of justice in and for said county, as near central as the situation and nature of the case will permit; and having fixed upon such place, the seat of justice shall there be established, and the court shall cause public buildings to be thereon erected: *Provided, however*, that when the commissioners shall have fixed upon a place in said county for the seat of justice thereof, they shall, under their hands and seals, forthwith

Platt of the  
ground to be  
recorded.

certify the same, together with a platt of the ground, to the county court, who shall cause the same to be entered of record, and shall immediately proceed to contract for said land; and the court for the said county shall levy, in the next county levy, two dollars per day each, for each day said commissioners shall be travelling to, attending and returning from the business under this act to be done by each of them, and to be accounted for in

Commissioners'  
allowance.

*201 10 12*

the same manner that other county levies are collected and accounted for.

1806.

Sec. 5. It shall be lawful for the sheriff of Mason county to make distress for any public dues or officers' fees unpaid by the inhabitants within the bounds of the said county of Lewis, at the time such division shall take place, and he shall be accountable in like manner as if this act had not taken place.

Duty of Mason  
sheriff.

Sec. 6. The courts of Mason county shall have jurisdiction over all actions and suits at law or equity depending therein at the time of the said division, and shall try and determine the same, issue process and award execution thereon.

What jurisdic-  
tion retained by  
Mason.

Sec. 7. *And be it further enacted,* That the county court and sheriff of the said county of Lewis shall be governed by the same laws and regulations as other county courts and sheriffs are, relative to elections; and the sheriff of the said county of Lewis, shall perform the duties required of the sheriff of Mason, so far as relates to elections held in the said county of Lewis.

How county  
court & sheriff  
to be governed.

This act shall commence and be in force from and after the first day of April next.

CHAPTER CCCXLVII.

*An ACT to amend an act entitled "an act to amend an act to reduce into one the several acts establishing a permanent Revenue."*

Approved December 9, 1806.

See the preface to Chap. 10, of Vol. I.

SECTION 1. *BE it enacted by the general assembly,* That the sheriffs and collectors of the revenue shall respectively pay the amount of which they shall have had the collection, on or before the 10th day of November annually; and on failing so to do, shall pay at the rate of 18 per centum per annum on the amount remaining due from the first day of November until paid; and the auditor shall charge interest this year only from the 20th day of November, at the rate of 18 per centum per annum, and shall issue a warrant to any who have paid interest from the 15th day of October, for the amount thereof, until the 20th day of November, which the treasurer shall pay.

Sheriffs, &c.  
when to account  
for the revenue.

Penalty for a  
failure.

1806. *Sec. 2. Be it further enacted,* That when any sheriff or collector shall, by mistake, or otherwise, pay into the public treasury more money than was due from such sheriff or collector, it shall be the duty of the auditor of public accounts to issue his warrant on the treasury for such amount, which shall be paid out of any money in the public treasury.

*Sec. 3. And be it further enacted,* That all pedlars, shall, before they proceed to sell any goods in this commonwealth, apply to the clerk of some county court in this commonwealth for a license therefor, which said license it shall be the duty of the clerk to grant under his hand and the seal of his office, for which said pedlar shall pay as a tax to said clerk the sum of ten dollars; which license shall be valid for one year and no longer; and the clerk shall be entitled to receive fifty cents as his fee for said license; which tax shall be accounted for by the clerks as other monies received by them; and if any pedlar shall sell or offer for sale any goods, wares or merchandize, without first obtaining a license as aforesaid, shall be liable to be fined a sum of ten dollars for each offence, by any justice of the peace, to the use of the informer; and for that purpose all justices of the peace in this commonwealth are authorised and directed, on their own view, or from the information of others, to issue his warrant, directed to any constable or sheriff, to bring said pedlar before him, and distrain all his goods; and proof being made of the fact, the said justice shall proceed to give judgment, and award execution for the said fine; and the said constable or sheriff shall proceed to sell the said goods, or so much of them as will be sufficient to satisfy said execution.

*To commence.* This act to be in force from and after its passage.

#### CHAPTER CCCXLVIII.

*An ACT authorising an additional number of Justices of the Peace in certain Counties.*

Approved December 9, 1806.

*SECTION 1. BE it enacted by the general assembly,* That in addition to the number of justices of the peace now allowed by law for the county of Nelson, one other justice of the peace shall be, and the same is hereby allowed for said county.

Sec. 2. *Be it further enacted*, That there shall be the additional number of two justices of the peace for the county of Bracken; also two for the county of Scott; the county of Logan shall be allowed two justices of the peace, in addition to the number heretofore allowed by law for said county; and the county of Breckenridge shall be allowed one justice of the peace in addition to the number allowed by law for said county; the county of Woodford shall be allowed one other acting justice of the peace, in addition to the number heretofore allowed by law for said county.

1806.

This act shall be in force from its passage.

---

#### CHAPTER CCCXLIX.

*An ACT authorising the insertion of Advertisements in the Impartial Review, printed at Bardstown.*

Approved December 9, 1806.

*BE it enacted by the general assembly*, That it shall and may be lawful for any advertisement which is required by law to be published in a newspaper in this commonwealth, to be inserted in the Impartial Review, printed at Bardstown; and the editor or editors of said paper shall be entitled to the same fees, and be governed by the like regulations, as other printers in this commonwealth: *Provided*, that nothing herein contained shall be so construed as to authorise the insertion in the Impartial Review of such advertisements as are particularly required by law to be published in the paper of the public printer.

This act shall be in force from its passage.

---

#### CHAPTER CCCL.

*An ACT to amend the several acts regulating the Town of Paris, in the County of Bourbon.*

Approved December 9, 1806.

*BE it enacted by the general assembly*, That the trustees of the town of Paris, in the county of Bourbon, shall have full power and authority to levy and collect from the citizens of said town, any sum, at their discretion, not exceeding two hundred dollars annually, in lieu of the sum of twenty-five pounds, heretofore allowed by

1806.

law, to be levied, collected and accounted for, and applied to the same uses and purposes as the former tax of said town has been heretofore directed by law.

This act shall commence and be in force from and after the first day of January next.

~~~~~  
CHAPTER CCCLI.

*An ACT making provision for William Hadden and James Neville.*

Approved December 9, 1806.

WHEREAS it is represented to the general assembly, that William Hadden served as a soldier under the command of Gen. Benjamin Logan, against the Shawanee Indians, in the year 1786, and that he, the said Hadden, never received any compensation for the same:

Sec. 1. *Be it therefore enacted by the general assembly,* That the auditor of public accounts shall issue a warrant to the said William Hadden for the sum of four dollars and twenty-one cents, and that six per centum per annum interest shall be allowed thereon from the 21st day of December 1799; and the warrant for said services shall specify the consideration, and be payable only in discharge of instalments due for lands granted to settlers south of Green river.

Sec. 2. *And be it further enacted,* That the auditor shall issue a warrant to James Neville for the sum of four dollars and twenty-one cents, with interest as aforesaid, it being in consideration of services rendered by the said Neville on the said expedition, payable as aforesaid.

This act shall be in force from and after its passage.

~~~~~  
CHAPTER CCCLII.

*An ACT to legalise the proceedings of the County Courts of Livingston, Cumberland, Lincoln, and Pendleton.*

Approved December 9, 1806.

The proceeding legalised, was an irregular laying of the levy.

~~~~~  
CHAPTER CCCLIII.

*An ACT forming an Election Precinct out of the County of Logan.*

Approved December 9, 1806.

SECTION 1. *BE it enacted by the general assembly,* That the following bounds taken off the county of Lo-



gan, is hereby erected into an election precinct, to wit : beginning on Green river, at the mouth of Muddy river; thence up the said Muddy river to the Muhlenberg line ; thence a direct line to James Reed's ; from thence a direct line to James Mearces's mill, on Gasper's river ; then down Gasper's river to the Warren line ; thence with the said line to Big Barren river, and with said river to its mouth, and down Green river to the beginning ; and that the place of meeting to hold the elections of said precinct, shall be at the house of capt. Willis Hartgrove, in Berrysville.

1806.

Sec. 2. That either the principal or some sworn deputy sheriff of the county of Logan, shall superintend the elections at said precinct ; and the county court of Logan shall appoint a clerk and judges of the said election, who shall be paid in the same way, and subject to the same rules and regulations as are prescribed by an act passed the 21st December, 1799, regulating elections.

Sec. 3. That the sheriff attending the elections at Logan court-house, and the precinct, shall meet at Logan court-house on the Saturday next after the election, and shall then and there compare the polls of the candidates, and give certificates as the law directs, to the person or persons elected.

This act shall commence and be in force from its passage

---

#### CHAPTER CCCLIV.

##### *An ACT for the benefit of John Bilbo.*

Approved December 9, 1806.

He was deputy sheriff of Henderson, and through extreme sickness had failed to return his delinquent list in time. This act allowed him credit therefor, his failure notwithstanding.

---

#### CHAPTER CCCLV.

##### *An ACT for the relief of James Martin.*

Approved December 9, 1806.

He had been deputy sheriff of Shelby, and this act allowed him credit for a delinquent list, which the clerk, from some unknown cause, had failed to certify.

1806.

## CHAPTER CCCLVI.

*An ACT for the further improvement of the Navigation of the Rolling Fork.*

Approved December 9, 1806.

*BE it enacted by the general assembly,* That it shall and may be lawful for the inhabitants of Washington county, to remove all obstructions of every kind, that may injure or impede the navigation of the Rolling fork, from Bradfort's mill to Dorin's mill, under the same regulations in other respects, as is provided by an act of assembly in 1805, for opening said stream from said Dorin's mill to the mouth thereof: *Provided, however,* that nothing herein contained shall be so construed as to injure the mill-dam of said Dorin.

This act shall commence and be in force from and after the passage thereof.

## CHAPTER CCCLVII.

*An ACT for the relief of the right reverend James Madison.*

Approved December 9, 1806.

The platts and certificates of survey for 10,000 acres of land, lying on Sandy, having been lost or destroyed, in consequence of which no patent had issued; but the Bishop had uniformly paid the taxes, and but lately discovered the accident. Wherefore this act authorised a re-survey, registering, and patent for said land.

## CHAPTER CCCLVIII.

*An ACT for the division of Henderson County.*

Approved December 9, 1806.

*SECTION 1. BE it enacted by the general assembly,* That from and after the first day of May next, all that part of the county of Henderson included in the following bounds, to wit: beginning at the mouth of Deer creek; thence up Green river to the mouth of Pond river; thence up Pond river by the county line to Tradewater; thence down Tradewater to the mouth of Owen's creek: thence a due north course to the main branch of the Crab Orchard fork; thence up the main branch of said Crab Orchard fork, until a line at right angles will strike the head of Black's and Newman's sugar camp branch; thence down the same and Deer

A new county  
erected.

Boundary.

creek to the beginning, shall be one distinct county, and called and known by the name of Hopkins. A court for the said county shall be held by the justices thereof, on the third Monday in every month in which the circuit courts are not hereafter directed to be held.

1806.

Name.

Times of holding courts.

First court, and where held.

Seat of justice, how to be fixed on.

Sec. 2. The justices to be named in the commission of the peace for the said county of Hopkins, shall meet at the house of Robert M'Gary, in the said county, on the first court day after the said division shall take place; and having taken the oaths prescribed by law, and a sheriff being legally qualified to act, the justices shall proceed to appoint and qualify a clerk, and fix on a place for holding courts in said county, at, or as near the centre thereof, as situation and convenience will admit; and thenceforth the said courts may proceed to erect the necessary public buildings at such place; and until such buildings are erected at such place for holding courts as they shall think proper: *Provided, always,* that the place for erecting public buildings shall not be fixed on unless a majority of the justices of both courts of the said county shall concur therein. Each court shall appoint its own clerk, a majority of such concurring therein; but a majority of those present on any court day, may appoint a clerk *pro tempore*.

Sec. 3. *And be it further enacted,* That the circuit court for said county of Hopkins, shall be held annually on the third Monday in the months of March, June and September.

Circuit court, when held.

Sec. 4. It shall be lawful for the sheriff of Henderson to collect and make distress for any public dues and officers' fees which shall remain unpaid by the inhabitants thereof, at the time such division shall take place, and shall be accountable for the same in like manner as if this act had not been made. And the courts of the county of Henderson shall have jurisdiction in all actions and suits either in law or equity, which shall be depending before them at the time of such division, and shall try and determine the same, issue process, and award execution therein.

Power of the sheriff of Henderson.

Jurisdiction of the court of Henderson.

Provisions as to elections.

Sec. 5. *And be it further enacted,* That the citizens of said county of Hopkins shall vote for members to serve in the general assembly, as joined with, and making a part of the county of Henderson, in the same manner as heretofore, until the next arrangement of repre-

1806.

sentation by the legislature of this commonwealth; except that the sheriff of the said county of Hopkins shall take the polls and conduct such election.

## CHAPTER CCCLIX.

*An ACT to amend and reduce into one the several acts concerning the Town of Augusta, in Bracken County.*

Approved December 9, 1806.

*Eis*

Preamble.

WHEREAS it hath been represented to the present general assembly, that the citizens of the town of Augusta, in the county of Bracken, are unreasonably burthened with keeping in repair the many roads leading to said town, the streets and harbors thereof, and a bridge across little Bracken creek, in pursuance of an act entitled "an act regulating the town of Augusta, in the county of Bracken;" and whereas the said act is in some respects indefinite and defective: therefore,

Regulations as to the harbor, streets, &c.

Sec. 1. *Be it enacted by the general assembly,* That the citizens of the said town of Augusta, shall be bound only to open and keep in repair the harbor, streets and alleys of said town, together with the roads from the termination of the said streets to the utmost boundary of the land condemned for the use of said town.

Trustees to be elected, when and by whom.

Sec. 2. *And be it enacted,* That there shall be annually elected by the white male citizens of said town, of the age of eighteen years and upwards, on the first Wednesday in September, seven trustees; to continue in office until the next annual election; but in case of death, refusal to act, or removal therefrom, the vacancy occasioned by such death, refusal to act, or removal, shall be supplied by the appointment of some other person, by a majority of the remaining trustees, to continue in office during the term for which they may have been elected; and in case the citizens of said town shall not at any election as aforesaid, proceed to elect trustees, the county court of the said county may, and they are hereby authorised, and it shall be the duty of the said court to appoint the same, to continue in office until the next annual election.

Clerk to be appointed, & his duty.

Sec. 3. *Be it also enacted,* That the trustees so elected or appointed as aforesaid, shall be, and they are hereby authorised to appoint a clerk, who shall take the oaths required by the constitution of persons holding

offices under this government, to continue in office during pleasure, whose duty it shall be to record the transactions of the said trustees, and preserve such records, together with such papers as may be lodged or filed in his office, and his said office shall be kept free of access to any person or persons who wish to inspect any record or paper therein lodged; and he shall moreover advertise the place of holding elections for trustees, fifteen days at least prior to the annual elections as aforesaid, at the court-house door, and other places of public resort within the said town; and shall receive as a compensation such sums as may be deemed by the said trustees equivalent to his services.

1806.

Sec. 4. *And be it also enacted*, That the said trustees shall, at their first meeting after each election, appoint a surveyor of the harbor, streets, alleys, public grounds and roads within the said town, to serve for one year, and until a successor be appointed, whose duty it shall be to keep the said harbor, streets, alleys, public grounds and roads in repair; and for refusal to serve, or neglect to perform any of the duties aforesaid, he shall forfeit and pay the sum of five dollars, to be recovered before any magistrate of said county, to be applied as the trustees may direct.

Surveyor of the harbor, &c. to be appointed, & his duty.

*6 said*

Sec. 5. *Be it further enacted*, That the said trustees be, and they are hereby authorised and empowered to pass any by-laws for the regulation of the police of the said town, not contrary to the constitution or laws of this commonwealth, that they may deem necessary, and shall publish the same by posting them at the court-house door, three weeks before they shall take effect.

Trustees may make by-laws.

Sec. 6. *And be it further enacted*, That the said trustees may, when a majority of them shall deem it necessary, levy annually on the holders of lots therein, any sum not exceeding one hundred dollars, having regard to the value of lots held by each individual, for the better carrying into effect the provisions of this act.

And levy a tax.

Sec. 7. *Be it also enacted*, That the said trustees may annually appoint a collector, who shall enter into bond and security for the performance of his duty, under such penalty and condition as the said trustees may think proper, and he shall have the same power to collect, and commission for collection, that is given to collectors of the revenue within this commonwealth; and

To appoint a collector, & his duty.

1806. in case any collector appointed as aforesaid, shall fail to pay the amount put into his hands for collection, after deducting for his commission and such delinquencies as may be adjudged proper by the said trustees, at the expiration of six months after the same shall come to his hands, he shall be subject to a like motion, and the same penalties which are inflicted on delinquent sheriffs, to be recovered in the county court of said county.

Penalty for running horses, &c.

Sec. 8. *And be it also further enacted,* That if any person shall run a horse or horses, play at long-bullets, or shoot a gun in the streets, alleys, or public ground of said town, shall forfeit and pay the sum of two dollars for every such offence, to be recovered and applied as other fines by this act are directed.

Present trustees &c. continued for a limited time.

Sec. 9. *And be it also further enacted,* That the trustees and clerk now in office, shall continue to perform their respective duties until the next annual election, and those by-laws, not contrary to the requisitions of this act, shall continue in force until the same shall be repealed.

This act shall commence and be in force from and after the passage thereof.

#### CHAPTER CCCLX.

*An ACT to amend an act providing for the opening of a Road from Thomas Green's, near the mouth of Triplett, on Licking River, to Big Sandy River.*

Approved December 9, 1806.

WHEREAS it appears to the present general assembly, that by an act passed on the 24th day of November, in the year one thousand eight hundred and four, entitled "an act providing for the opening of a road from Thomas Green's, near the mouth of Triplett, on Licking river, to Big Sandy river," said road was let out agreeably to the terms of said recited act, and opened for the sum of four hundred dollars, fit for the use of horsemen and drovers, and that great advantages will result to the inhabitants of this commonwealth if said road was made fit for waggons and carriages, and cleared as other roads of this state usually are: therefore,

Commissioners appointed to o.

Sec. 1. *Be it enacted by the general assembly,* That Thomas Fletcher, Thomas Green, and James Ward,

be appointed commissioners, who, or any two of them, are hereby authorised to open and raise subscriptions for the purpose of clearing said road, and that as soon as said commissioners shall procure subscriptions to the amount of five hundred dollars, they shall proceed to let out the clearing of said road, by public auction, to the lowest bidder; provided the lowest bid shall not exceed eleven hundred dollars.

1806.

pen subscrip-  
tions, and their  
duty.

Sec. 2. *And be it further enacted*, That said commissioners shall, at least two months immediately preceding, advertise at the court-houses of Montgomery and Fleming counties, that on such a day, therein appointed, they will proceed to let out the clearing said road, agreeably to the provisions of this act, at the court-house of Montgomery county; and said commissioners shall take from the undertaker a bond with sufficient security, by said commissioners approved, in double the sum for which said road may be let out or undertaken, payable to the governor of this state for the time being, and his successors in office, conditioned to open said road agreeably to the provisions of this act, which bond shall, within ten days after it is taken, be lodged with the clerk of the Montgomery circuit court, to be safely kept in his office.

To advertise the  
letting of the  
road.

Undertaker to  
give bond.

Sec. 3. *And be it further enacted*, That said road shall be cleared at least thirty feet wide, clear of both standing and fallen timber, and other obstructions occurring therein; and that all banks shall be dug away in such manner as to make said road conveniently passable by waggons and wheel carriages.

The manner in  
which the road  
is to be opened.

Sec. 4. *And be it further enacted*, That when the undertaker or undertakers shall prove to the satisfaction of the county court of Montgomery, when at least seven justices thereof shall be sitting, that he or they has performed said undertaking agreeably to the provisions of this act, and the condition of the bond, having given the commissioners herein appointed, at least ten days notice of his making such proof, said county court shall grant him a certificate thereof; and on producing said certificate to said commissioners, they shall pay to him all monies by them collected, by virtue of the subscriptions raised pursuant to this act, and shall deliver said subscriptions to said undertaker, who shall hereby be empowered to demand, sue for, and recover all such ba-

Mode of paying  
the undertakers.

1806.

lances as may be due on said subscriptions when so delivered : and said commissioners, on the production of said certificate, shall certify to the auditor of public accounts the balance due said undertaker, according to his undertaking, after the amount of subscriptions pursuant to this act, shall be deducted ; and on the production of said certificate of the commissioners, together with the certificate of the county court before mentioned, the auditor shall issue his warrant on the treasurer for said balance, and the treasurer shall pay the same accordingly.

Time in which  
the road is to be  
completed.

Proceedings a-  
gainst the un-  
dertaker.

Sec. 5. *And be it further enacted*, That the undertaker or undertakers of said road shall complete the same pursuant to this act, within twelve months after the date of said contract ; and if said undertaker or undertakers shall fail in the performance of their bargain, agreeably to this act, he or they so failing, shall not receive from the commissioners any part of said subscriptions, or be entitled to collect the same, or receive any money from the treasury, but said commissioners shall collect the whole of said subscriptions, and shall commence suit on the aforesaid bond, and shall recover the amount for which said road was undertaken, after the amount of subscriptions is deducted, with costs of suit, in any court having jurisdiction of like sums ; which recovery, together with the amount of subscriptions aforesaid, shall be appropriated to clearing said road, agreeably to the provisions of this act.

County courts  
to have jurisdic-  
tion over the  
road.

Sec. 6. *And be it further enacted*, That the county courts of the counties through which said road may pass, shall possess as complete jurisdiction over the same as in case of other roads by the laws of this state.

This act shall commence and be in force from its passage.

#### CHAPTER CCCLXI.

*An ACT to amend an act entitled "an act establishing the Town of Mountsterling, in the County of Clarke."*

Approved December 15, 1806.

WHEREAS it has been represented to the present general assembly, that doubts exist on the act passed December the 17th 1792, entitled "an act establishing the town of Mountsterling, in the county of Clarke,"



## XV. YEAR OF THE COMMONWEALTH.

351

will not vest the title in fee simple of the lots sold under the above recited act, in the purchasers : therefore,

1806.

Sec. 1. *Be it enacted by the general assembly*, That the purchasers of lots in the said town of Mountsterling, shall be vested with the title of such lots in fee simple, any law to the contrary notwithstanding.

Sec. 2. *Be it further enacted*, That the trustees of the said town of Mountsterling shall be vested with power to convey the title of lots which may be hereafter sold in said town, to purchasers, in fee simple : *Provided nevertheless*, that nothing in this act shall be so construed as to prevent any person or persons, bodies politic or corporate, having an equitable claim, recovering from the original proprietors the value of the lots which have been sold, or which may hereafter be sold.

Sec. 3. *And be it further enacted*, That all and every act or parts of acts, coming within the purview of this act, shall be, and the same are hereby repealed.

This act shall be in force from the passage thereof.

### CHAPTER CCCLXII.

*An ACT concerning the Costs on Presentments made by the Grand Jury.*

Approved December 17, 1806.

*BE it enacted by the general assembly*, That when a presentment shall be made by any grand jury in this commonwealth, if the defendant shall come into court before the expiration of the term at which said presentment shall be made, and pay down the fine and clerk's fees to the clerk, that no attorney's fee shall be taxed against the defendant : *Provided, however*, that the provisions of this act shall not extend to cases in which the amount of the fine is not fixed by law ; and said clerk shall annually account to the county court for his county, at their court of claims, for the amount of such fines by him received, and pay over such money to such persons as the said court may direct. Any clerk failing to account for, and pay such fines by him collected, shall be liable to be fined in any sum not exceeding fifty dollars, nor less than five dollars, to be appropriated towards lessening the county levy.

This act shall be in force from its passage.

## NOVEMBER SESSION,

1806.

## CHAPTER CCCLXIII.

*An ACT concerning Mill-Dams on the South and Stoner's Forks of Licking.*

Approved December 17, 1806.

*BE it enacted by the general assembly,* That the owners and occupiers of mills on the South and Stoner's forks of Licking, shall be allowed a further time to erect and complete the locks and slopes to their respective mill-dams until the natural obstructions are removed out of said streams, under the several legislative provisions made on that subject, agreeable to the terms on which their privilege of building dams were allowed.

This act shall be in force from its passage.

## CHAPTER CCCLXIV.

*An ACT concerning the Seat of Justice and Town of Centreville, in the County of Livingston.*

Approved December 17, 1806.

WHEREAS it is represented to the general assembly, that the seat for holding courts in the county of Livingston, and the town laid off commonly called Centreville, is in possession of John G. Lofton, William E. Phillips, and James Hawthorn, and that William Reading and James Ritchie have sued for, and claim the same, whereby the court of the said county is legally precluded from establishing the said town :

*Be it therefore enacted,* That the county court of the said county of Livingston are hereby required and enabled to establish the said town as firmly and as fully, and in the same manner as if no conflicting claims thereto were in existence : *Provided nevertheless,* that before the monies for the sales of any lot or lots in the said town are paid over to any of the claimants aforesaid, he, she or they shall enter into bond, with approved security, in at least double the sum received, to refund and repay all such sums, with lawful interest, to such person or persons as may appear to be the right owner or owners of the said property, upon the final adjudication and decree of the courts of justice in the case ; which bond shall be taken to the justices of the said county, and shall not be void on any recovery, till the whole is recovered.

This law to be in force from its passage.

XV. YEAR OF THE COMMONWEALTH.

255

CHAPTER CCCLXV.

1806.

*An ACT for the benefit of the late Sheriff of Mercer County.*

Approved December 17, 1806.

This act allows him the amount of a delinquent list, which had been certified, but by accident had not been presented to the auditor.

CHAPTER CCCLXVI.

*An ACT for the relief of Robert Samuels.*

Approved December 17, 1806.

He had served as a spy, in 1794. This act allows him one dollar *per diem* for the time he served.

CHAPTER CCCLXVII.

*An ACT authorising David Sutton to erect a Water Grist-Mill on the Kentucky River.*

Approved December 17, 1806.

WHEREAS it is represented to the present general assembly, that David Sutton has erected, or is about to erect a water grist-mill on the Kentucky river, at Todd's ferry, in the county of Mercer, which, under certain restrictions, would not at all obstruct or injure the navigation of said river, and would be of great public utility: therefore,

Preamble.

Sec. 1. *Be it enacted by the general assembly,* That the said David Sutton is hereby authorised to erect (or if already erected, to continue) a water grist-mill on the Kentucky river, at the place above described, on the following conditions, to wit: that the works of said mill shall not extend more than twenty-four feet in the said river, from the edge of the stream when the water is at the ordinary height; that the dam shall not exceed two feet in height, and shall not extend into the river further than one-third of the width of said stream, when the water is at such a height as to admit of the passage of boats; that a gap shall be left open in said dam, or a passage around it, through which perogues, canoes or other small craft may conveniently pass at low water; and that the said mill or mill-dam shall in no wise injure the navigation of said river.

Conditions, regulations, & restrictions.

Sec. 2. The said David Sutton shall, within six months from the passage of this act, enter into bond, in

Bond and security to be given.

1806.

the county court of Mercer, with security, to be approved of by said court, in the penalty of one thousand dollars, payable to the governor for the time being, or his successors in office, conditioned that the said Sutton will well and truly pay all damages which may accrue to any person or persons from the erection of said works: which bond shall be lodged in the clerk's office of said court, and may from time to time be put in suit in any court possessing competent jurisdiction, by any person or persons who in navigating said river shall experience any delay, injury, or disadvantage from the erection of said mill or dam. And if the said Sutton shall transfer the right to said works, to any other person or persons, such person or persons shall immediately upon the investiture of such right, in like manner enter into a similar bond in the same court, with security as aforesaid; which bond may be proceeded upon in the same manner as before mentioned; and the said Sutton and his security or securities shall thereafter be released from their bond previously given.

Sec. 3. The legislature of this state shall at all times possess the right of altering or repealing all or any of the provisions of this act, and the privileges hereby granted, whenever they may deem it expedient.

This act shall be in force from its passage.

—:~::~~::~~::~~::~~:—  
CHAPTER CCCLXVIII.

*An ACT authorising Thomas Trew to build a Mill on Green River.*

Approved December 21, 1806.

WHEREAS it is represented to the general assembly, that great advantages will result to the community at large, by permitting a mill to be erected on Green river, in Green county, under certain restrictions; and whereas Thomas Trew, of said county, hath petitioned the present general assembly for leave to erect a dam across the said river, and also for 77 acres of vacant land, for the use of a mill: therefore,

T. Trew allowed to build a dam across Green river.

Sec. 1. *Be it enacted by the general assembly,* That the said Thomas Trew be, and he is hereby authorised to erect a dam for the purpose of a mill across said river, not exceeding two feet in height above the bed of the stream.

Sec. 2. *And be it further enacted,* That it shall and may be lawful for the said Trew, at any time within six months from the passage of this act, to make an entry with the surveyor of Green county, founded on this act, for the said 77 acres of land, and cause the same to be surveyed, a platt and certificate returned to the register's office, and upon paying into the public treasury at the rate of twenty dollars per hundred acres, shall be entitled to a patent therefor, which shall vest all the title of this commonwealth to said land, in said Trew: *Provided,* the payment be made within six months from the date of this act.

1806.

And to locate 77 acres of land.

Sec. 3. *And be it further enacted,* That it shall be the duty of the said Trew to cause to be erected at the same time with the dam, and kept in good repair, a good and sufficient slope for the safe passage of all boats and other craft, and also for the passage of fish, otherwise the said dam shall be considered as a nuisance: *Provided also,* that the said Trew shall, within three years from the passage of this act, erect the said mill, otherwise the privileges hereby granted, of building said mill and dam, shall be void and of no effect: *And provided also,* that it shall at all times be in the power of the legislature to repeal so much of this act as authorises the erection of said dam, whenever the public good may require it, for the more convenient use of said stream for navigation.

Duties enjoined on him.

Provido.

Provido.

This act shall be in force from its passage.

# CHAPTER CCCLXIX.

*An ACT declaring certain Offices incompatible with each other.*

Approved December 22, 1806.

SECTION 1. *BE it enacted by the general assembly,* That the office of justice of the peace, and that of jailor, shall hereafter be deemed and held incompatible, and that when any person holding one of the above offices shall accept the other, the first office shall be vacated to all intents and purposes.

Sec. 2. *And be it further enacted,* That if any judge or justice of any court in this commonwealth, shall accept the office of county surveyor, or if any person, being a county surveyor, shall accept the office of judge or

1806. justice of any court, on such acceptance, the former office so held, shall be vacated to all intents and purposes.

CHAPTER CCCLXX.

*An ACT to increase the Salary of the Judges of the Court of Appeals.*

Approved December 22, 1806.

WHEREAS it is deemed highly important to have the court of appeals filled with judges whose reputation for talents and integrity will ensure the confidence of the people ; and whereas it is believed that such characters cannot be procured for the present salary : therefore,

*Be it enacted by the general assembly,* That from and after the passage of this act, each judge of the said court shall receive, annually, for his services, in addition to the present salary, the sum of 166 dollars 66 cents 7 mills, from the public treasury, payable quarterly, as heretofore.

This act shall be in force from and after the passage thereof.

CHAPTER CCCLXXI.

*An ACT to prevent Deeds and other Instruments of Writing from being recorded in the Circuit Courts.*

Approved December 22, 1806.

*SECTION 1. BE it enacted by the general assembly,* That so much of every act or acts as authorise the recording of deeds and other instruments of writing in the circuit courts, or the clerk's office of any circuit court, shall be, and the same are hereby repealed.

*Sec. 2. And be it further enacted,* That within the space of ten days after this act shall commence and be in force, it shall be the duty of the clerks of the several county courts in this commonwealth, to demand of the clerks of the circuit courts holden in their respective counties, all the books in which deeds and other instruments of writing, within the purview of this act, shall have been recorded, together with all original deeds and other instruments of writing, which may have been lodged in the offices of the said circuit courts, and may

Repealing  
clause.

County court  
clerks to de-  
mand books,  
&c.

not have been delivered to the owners thereof; and it shall be the duty of the clerks of the circuit courts severally, to deliver to the clerks of the county courts of their respective counties, all such books and original deeds and instruments of writing, immediately on such demand; and each clerk of the circuit court failing or refusing so to do, shall be liable to the penalty of one thousand dollars, recoverable by action of debt, in any court having jurisdiction of like sums, the one half to the informer, and the other half to the commonwealth.

1806.

Circuit court clerks to deliver books, &c.

Penalty.

Sec. 3. *And be it further enacted*, That copies of deeds and other instruments of writing, recorded in the circuit courts before this act takes effect, certified by the clerks of the county courts, shall be as legal evidence as if certified by the clerks of the circuit courts by whom they were first recorded.

Copies from county court clerks to be evidence.

This act shall be in force from and after the first day of June next. To commence.

CHAPTER CCCLXXII.

*An ACT to repeal in part, the act entitled "an act allowing Fees to Justices of the Peace, for certain services."*

Approved December 22, 1806.

WHEREAS it is represented to the present general assembly, that the act passed the 24th of December, 1805, entitled "an act allowing fees to justices of the peace for certain services," is found to be oppressive to the good citizens of this commonwealth, and particularly so to the poorer class of them: for remedy whereof,

*Be it enacted*, That so much of every act as allows justices of the peace fees for issuing warrants, executions, subpoenas, and giving judgments, shall be, and the same is hereby repealed.

This act shall commence and be in force from and after the first day of March next.

CHAPTER CCCLXXIII.

*An ACT extending the time of obtaining Certificates for vacant Lands in certain cases.*

Approved December 22, 1806.

See the prelection to Chap. 220, of Vol. I.

WHEREAS it is represented to the present general assembly, that many persons have settled themselves

Preamble

1806.

on the vacant lands of this commonwealth, before the first day of June last, pursuant to the act entitled "an act for settling and improving the vacant lands of this commonwealth," approved December 20th 1800, and the several subsequent acts amendatory thereof, and who have not obtained certificates therefor, owing to their ignorance of the repeal of the said acts at the last session :

In what cases  
certificates may  
be granted.

Sec. 1. *Be it enacted by the general assembly,* That any such *bona fide* settler before the first day of June last, shall be entitled to a certificate from the county court of the county wherein such settlement may have been made, upon the terms and under the restrictions and regulations prescribed in the above recited acts, and subject to such laws and regulations as the legislature may hereafter enact to enforce the payment of the state price therefor: *Provided, however,* that no such settler shall be entitled to a certificate, unless he shall have continued an actual and *bona fide* settler on the land for which the certificate is prayed, from the first day of June last until the time of granting such certificate, and all certificates granted to any person or persons other than such actual and *bona fide* settler, or in any manner contrary to the provisions and requisites of this act, shall be taken and deemed absolutely null and void to all intents and purposes; and the several county courts are hereby expressly prohibited from granting any certificate contrary to this act, and without receiving full and complete proof of the settlement above required.

Validity of the  
certificate may  
be enquired in-  
to.

Sec. 2. *And be it further enacted,* That the certificates which may be granted under color of this act, shall not be considered conclusive evidence of the settlement required by this act; but the same may be impeached by any other or subsequent locator or appropriator of land.

Prohibited from  
being granted  
for certain land.

Sec. 3. *And be it further enacted,* That no certificates shall be granted for any lands to which the Indian title was not extinguished prior to the 20th December, 1800.

Nor granted af-  
ter the 1st Sep-  
tember next.

Sec. 4. *Be it further enacted,* That no certificate shall be granted by virtue or under color of this act, after the last day of September next.

This act shall be in force from its passage.



CHAPTER CCCLXXIV.

1806.

*An ACT to amend an act entitled "an act to amend and reduce into one the several acts respecting the establishment of Ferries."*

Approved December 22, 1805.

See Vol. I, Chapter 243.

WHEREAS it is represented to the present general assembly, that the county courts of the several counties adjoining the river Ohio, within this commonwealth, have, under an act entitled "an act to reduce into one the several acts respecting the establishment of ferries," granted ferries across said river to the opposite shore; and whereas the authority of the said county courts in those cases, hath been doubted, and it being reasonable that the said ferries so granted, should be confirmed:

Sec. 1. *Therefore be it enacted by the general assembly,* That those ferries which have been granted by the several county courts aforesaid, pursuant to the requisitions of the aforesaid act, be, and the same are hereby confirmed: *Provided, however,* that this act shall not extend so far as to take away the right of any party who has brought, or may hereafter bring an appeal, *superseas*, or writ of error, to reverse any order of any such county court, establishing such ferries: *And provided also,* that such person or persons to whom such ferries may have been granted, shall, in the county court of the county in which such ferry or ferries are situate, enter into bond, with sufficient security, to be approved of by the said court, to the governor for the time being, and his successors in office, in the penalty of one thousand dollars, subject to the following condition: the condition of the above obligation is such, that whereas a ferry hath been established from the land of the said ——— in the county of ——— across the Ohio to the opposite shore: now, if the said ——— shall at all times keep good and sufficient boats for the transportation of passengers, carriages, and other personal property, across the said river, and shall at all times, except when the same shall be impassable, give immediate passage to such passengers, carriages, or property across the same, when thereto required, then the above obligation to be void, else to remain in full force: which bond shall be filed in the clerk's office of the said court; and any person or persons injured by a breach or breaches of the con-

Preamble.

Ferries granted by county courts confirmed.

Provide.

Bond to be executed.

Condition.

To be filed with the clerk, and how to be affected upon.

1806.

dition thereof, may prosecute thereon, before any court having competent jurisdiction, and recover in the name of the governor for the time being, or his successor in office, to his or their use, such damages as he or they may have sustained by such breach.

Further regulations concerning bond.

Sec. 2. *And be it enacted*, That when the whole of the penalty of any bond given as aforesaid, shall be recovered, unless he obligor or obligors in such bond shall renew the same at the next county court within and for the county wherein the said ferry may be situate, such obligor or obligors shall forfeit his or their right to such ferry or ferries.

Powers of the county courts.

Sec. 3. *And be it further enacted*, That the several county courts aforesaid, shall have power and competent jurisdiction to establish ferries across the said river to the opposite shore, where the same may by them be deemed necessary: *Provided, however*, that no ferry shall be hereafter established on the Ohio river, within

Proviso.

less than one mile above or one mile below any other ferry that may have been heretofore, or may hereafter be established on said river, except it be in a town, or where it shall be made necessary, by the putting into the river of some impassable creek, or opposite to some

Persons to give bond and security.

established ferry in the Ohio state; and the person or persons to whom the same shall be established, shall enter into bond with sufficient security, to be approved of as aforesaid, in the like penalty, and subject to the same condition, as in the first section of this act is required, may be acted upon in the same manner, and in case of failure, to renew the same when the penalty thereof shall be recovered, subject to the same forfeiture as in the second section herein mentioned, is provided.

Owners not to be exempted, & how.

Sec. 4. *And be it further enacted*, That the owners or occupiers of ferries which may be established in pursuance of this act, shall be entitled to no other exemption from public duties, or the payment of officers' fees, than by the laws of the congress of the United States, they are, or may be entitled.

County court to fix rates.

Sec. 5. *Be it also further enacted*, That the county courts aforesaid, in all cases where ferries are established under this act, the county shall, at the time when bond shall be entered into pursuant to this act, fix the rate of ferriage in the same proportion as by the fourth

**Court**

section of the act entitled "an act to amend and reduce into one the several acts respecting the establishment of ferries."

1806.

Sec. 6. *And be it also further enacted*, That when any ferry-keeper under this act, shall neglect or obstinately refuse to perform any of the duties required hereby, the said county courts respectively, within whose jurisdiction the same may be, on complaint of any person injured by such neglect or refusal, are hereby authorised to summon such ferry-keeper, or ferry-keepers, to appear at the next court to be held for such county, to shew cause why such ferry should not be discontinued; and if it appear to such court, that such ferry ought to be discontinued, they may, and they are hereby authorised to discontinue the same.

Regulations concerning the keepers.

Sec. 7. *And be it also further enacted*, That if any person or persons shall transport any passenger or passengers, carriages, or other property across the said river to the opposite shore, other than those who shall or may be authorised by the said county courts, or in virtue of this act, for any reward, or promise thereof, such person or persons shall be subject to the like penalty, and to be recovered in the same manner, as is described in the 8th section of the above recited act.

Penalty against persons not ferry-men.

This act shall be in force from and after the passage thereof. To commence

CHAPTER CCCLXXV.

*An ACT making provision for the honorable George Muter, late Chief Justice of this Commonwealth.*

Approved December 22, 1806.

WHEREAS the honorable George Muter, chief justice of this state, has resigned his office, owing to age and infirmity, and withdraws from public life without having accumulated a competency adequate to a decent support, and having spent the prime of his life in the service of his country, in both a military and civil capacity, is now disqualified from acquiring, by any exertion he can make, such competency; and it is unjust that a faithful, worthy public servant, should, under such circumstances, be left to struggle with penury and other difficulties, when he is least able to encounter them: therefore,

1806.

*Be it enacted by the general assembly, That the said George Muter shall receive, from the public treasury, annually, during his life, the sum of three hundred dollars, payable quarterly.*

This act shall be in force from and after the passage thereof.

---

#### CHAPTER CCCLXXVI.

*An ACT legalizing the proceedings of the County Court of Clark, at their November Term 1806.*

Approved December 22, 1806.

The proceeding legalized, was laying the levy without a majority of the justices.

---

#### CHAPTER CCCLXXVII.

*An ACT for the relief of Simon M. Hubbard, Deputy Sheriff of Warren County.*

Approved December 22, 1806.

This act made him compensation for arresting and re-conducting to prison, a felon who had escaped.

---

#### CHAPTER CCCLXXVIII.

*An ACT making compensation to Tunstall Quarles, Jonathan Smith, and Robert Moderill, for certain services.*

Approved December 22, 1806.

The services were, letting out the opening of part of the road leading from Danville to Tellico.

---

#### CHAPTER CCCLXXIX.

*An ACT for the relief of James Ward and George Riddle, late Sheriffs of Montgomery and Fleming Counties.*

Approved December 22, 1806.

This act allowed Ward a credit for a mistake, and Riddle credit for his delinquent list, which had not been presented in time.

## CHAPTER CCCLXXX.

1806.

*An ACT authorising the opening a Road from New-Castle, in Henry County, to the mouth of Licking River.*

Approved December 22, 1806.

WHEREAS it is represented to the present general assembly, that the public would be greatly benefitted by the opening a road from New-Castle, in Henry county, to the mouth of Licking river :

Sec. 1. *Be it enacted by the general assembly, That* William Butler and James Bartlett, of Henry county, and Nathaniel Sanders and Jonathan Jennings, of Gallatin county, and Alexander M'Phearson and John H. Craig, of Boone county, and John Leuther, sen. and Joseph Kennedy, of Campbell county, shall be, and they are hereby appointed commissioners, and are hereby vested with power to cause a waggon road to be opened from New-Castle, through a part of Henry county, Gallatin county, Boone county, and part of Campbell county, to the mouth of Licking river, having due regard to the nearest and best way for the ease and convenience of the public good; and should any person through whose waste land the said road should be viewed, object to the opening the same, the sheriff of the county in which the land may lie, shall, at the direction of said commissioners, or any two of them, summon a jury to meet upon the land on a certain day in the said commissioners' order mentioned, who, after being qualified, shall ascertain the damages that may accrue by the opening said road, and the road shall not be opened until such damages shall be paid by the commissioners.

Sec. 2. *Be it further enacted, That* for the raising a fund for the paying such damages and opening said road, the said commissioners, or a majority of them, are hereby authorised to open subscriptions to pay said damages and to aid the opening said road, and for paying any other necessary charges respecting the same, as the said commissioners, or a majority of them, may direct; and said commissioners are hereby vested with power to sue for and recover any sum or sums so subscribed, in the same manner sums of the same amount are usually recovered; which money so recovered, shall be applied for the purposes aforesaid.

This act shall be in force from the passage thereof.

1806.

## CHAPTER CCCLXXXI.

*An ACT allowing Mills to be built on Main Licking, under certain restrictions.*

Approved December 22, 1806.

*Vide Vol. I, Chap. 48, and the prælection.*

WHEREAS it is expedient to extend the privilege of building mills on main Licking river, between the mills of George M. Bedinger and the mouth of Beaver creek: therefore,

Sec. 1. *Be it enacted by the general assembly, That* any person or persons desirous of building a mill or mills on main Licking, between the mill of George M. Bedinger and the mouth of Beaver creek, and owning land on one or both sides of the river, and wishing to erect a dam across the same, shall proceed as is directed by an act entitled "an act to reduce into one the several acts concerning mill-dams and other obstructions in water courses," and shall also be subject to the following further conditions, to wit: the owner or owners of every mill on said river, shall erect a slope in the dam, which shall extend down the stream ten feet for every foot perpendicular height of said slope: *Provided, however,* that no dam shall be erected across said river higher than two and a half feet at that part of the dam where the slope may be constructed.

Sec. 2. *And be it further enacted, That* the slant of the slope shall be of strong timber or stone, well and smoothly laid by a straight line from the upper to the lower end, closely and compactly laid, so as to prevent the water from running through; and to confine the water in the slope there shall be a good and sufficient wall of stone or timber on each side thereof, as high as the dam on each side of the slope, and to extend down the slope one-third of the length thereof.

Sec. 3. The slope shall always be erected in the main channel of the stream, and about the middle thereof; and the dam on each side of the slope shall be erected three feet high for every foot of perpendicular height of dam where the slope shall be constructed, and if any mill shall be built on said river where an island stands in the river, a dam shall be erected over the opposite channel of sufficient height to confine the water in the main channel where the slope shall be constructed; and

there shall be, during the season for navigation, a sign or index suspended over the centre of the slope, as a guide to boatmen.

1806.

Sec. 4. All dams hereafter erected, shall have the slopes, at least sixty feet wide, completed with the dam. And it shall be the duty of every owner or owners of a mill erected under this act, to keep his, her, or their dam and slope in good repair, to clear away all drift-wood lodged against or about the slope, and also to cut down and convey off all trees leaning over the stream of the main channel, within two hundred yards below the dam.

Sec. 5. *And be it further enacted*, That upon the report of the jury, if in favor of the party petitioning, the court granting leave to build the mill and dam, shall at the same time take from the party, and the party shall give bond with approved security, in the penalty of ten thousand dollars, payable to the governor for the time being and his successors, conditioned to perform the requisitions of this act, and to pay all damages which may be sustained by not performing; which bond may be sued on by any person or persons injured by a breach thereof, as often as any injury may arise: *Provided always*, that the power is hereby expressly reserved to the legislature, at all times to repeal all or any of the privileges hereby granted, or to make such other or further conditions and regulations as may be deemed necessary to secure the navigation of said river to the good citizens of this commonwealth.

Bond &amp; security to be given.

Which may be sued for.

Restriction.

This act shall commence and be in force from and after its passage.

# CHAPTER CCCLXXXII.

*An ACT concerning the Town of Hopkinsville, in Christian County.*

Approved December 22, 1806.

WHEREAS the present plan of the town of Hopkinsville, in Christian county, is found by experience to be inconvenient, owing to the streets and alleys and public ways thereof not being sufficiently capacious and extensive: therefore,

Sec. 1. *Be it enacted by the general assembly*, That the trustees of the said town may make such alterations

The trustees empowered to

1806.  
change the plan  
as to streets.

Proviso.

Lands may be  
conveyed, & for  
what.

Trustees to  
make convey-  
ances.

*Seller  
or Seller*

Inhabitants ex-  
empted from  
working on the  
roads.

Trustees may  
levy a tax.

Appoint a com-  
missioner, and  
his duty.

in the present plan thereof, in widening, extending and repairing the streets, alleys and public ways in said town, as to them may appear expedient and necessary, for the well being and convenience of the inhabitants thereof, and other persons interested : *Provided always*, that no street, alley, or public way, shall be so widened, extended or altered as to invade the private property of any person or persons whatsoever, but with the consent and approbation of every such person or persons.

Sec. 2. *And be it further enacted*, That any person or persons lawfully seized and entitled to land adjoining or within the limits, or contiguous to the limits of said town, may convey to the trustees such quantity or quantities of land adjoining and contiguous thereto, as may be necessarily occupied and encroached on in widening and extending the streets, alleys and public ways of said town ; and the said trustees may, and they are hereby authorised to convey and transfer the land and lots within said town, where it shall be deemed necessary, to such person or persons as may be lawfully entitled to receive conveyances for the same ; and such transfer and conveyance so made by the trustees, shall effectually vest the legal title in the purchaser or purchasers agreeably to the contract entered into between such purchaser or purchasers and the settler or settlers of said lots or land.

Sec. 3. *And be it further enacted*, That the persons resident in said town, shall be, and they are hereby exempted from working on any public road leading to or from the said town, and in lieu thereof the trustees may annually lay a tax on the inhabitants of said town, not exceeding seventy-five dollars, to be applied in widening, extending and keeping in repair the streets of said town ; and shall appoint a commissioner, whose duty it shall be, (after being duly qualified) in the month of April, to call on all the inhabitants of said town for a list of their taxable property, both real and personal, which list shall be given in on oath ; and said property shall be valued by the commissioner and entered in a book to be kept by him for that purpose ; which book shall be returned by said commissioner to the trustees, on or before the first day of May in every year, whose duty it shall be to proportion the tax in such manner that each person shall pay in proportion to the property he, she



or they may possess within the limits of said town, and put the same into the hands of some sheriff or constable for collection, whose duty it shall be to collect and account for the same to the trustees of said town, on or before the first day of July; and such collector shall be allowed to retain six per centum on all monies so collected under the provisions of this act; and in case of failure to do the duties assigned him by this act, said collector shall be liable to be moved against as in other cases, and be further liable to pay a fine of one hundred dollars; which fine may be sued for and recovered before any court within this commonwealth having jurisdiction of the like sums. Any person failing to give in a list of his taxable property, when called on by the commissioner for that purpose, or giving in a fraudulent list, shall be liable to pay a fine of fifteen dollars, to be recovered before any justice of the peace of said county: which fines, as well as fines laid on the collector for failing to act agreeably to the provisions of this act, shall be applied by said trustees to the repairing of the streets and alleys of said town: and said persons so taxed within said town, shall have the liberty of working out said tax, at the rate of fifty cents per day.

1806.

Tax, how to be collected.

Penalty for giving in false list.

Tax, how to be paid.

CHAPTER CCCLXXXIII.

*An ACT for establishing a Town on the Lands of Squire Grant, in Campbell County.*

Approved December 22, 1806.

SECTION 1. *BE it enacted by the general assembly,* That sixteen acres of land, the property of Squire Grant, lying in the county of Campbell, on the east bank of main Licking, and immediately above the mouth of Pond creek, beginning at a beech tree marked as a corner to the plan of a town, running from said tree north seventy degrees east, fifty poles, to a stake; thence south twenty degrees east, fifty poles, to a stake; thence south seventy degrees west, fifty poles, to a stake; thence north twenty degrees west, to the beginning, shall be, and the same is hereby vested in fee simple, in Bartlett Graves, Zachariah Moore, John Winston, Frank Spelman, Nicholas Gherry, William Stephens, and Benjamin Allen, gentlemen, as trustees of a town hereby es-

1806.

tablished thereon, to be called and known by the name of Salisbury.

Sec. 2. The said trustees, or a majority thereof, shall, as soon as may be, proceed to lay off the said sixteen acres of land into convenient lots and streets at their discretion, and after giving public notice of the same, sell the lots on a credit at their discretion, taking bond with security for the payment of the purchase money; which bond or bonds so taken shall be by them assigned over to the former proprietors of the said land.

Sec. 3. The said trustees shall execute deeds of conveyance in fee simple to the purchasers, and shall have power to make such rules and regulations for the internal government of said town, as they may deem proper. And the said trustees may at any time, when deemed necessary, extend the bounds of said town, so as to cover any number of acres not exceeding two hundred acres; and when extended shall have the same power over the same as hereby given them over the sixteen acres above mentioned. And the said trustees shall have power to fill their own vacancy or vacancies, occasioned by any accident or circumstance whatever; and a majority of the same, and their successors in office, is hereby vested with the same powers, and enabled to perform any act or deeds which the whole of them could legally do by this act.

Sec. 4. *Be it further enacted*, That the said Squire Grant shall, previous to the receipt of such payment, enter into bond with one or more securities to the trustees, which bond shall be recorded forthwith in the county court of Campbell, in the penalty of one thousand pounds, conditioned for the payment of the amount of such sales, with interest, to any person who shall hereafter produce a more equitable claim to said land.

This act shall be in force from the passage thereof.

#### CHAPTER CCCLXXXIV.

*An ACT to prevent unlawful warlike Enterprizes.*

Approved December 24, 1806.

SECTION 1. *BE it enacted by the general assembly*,

That if any person or persons shall, within the jurisdiction of this state, fit out or arm, or attempt to fit out or arm, or procure to be fitted out or armed, or shall

knowingly be concerned in furnishing, fitting out or arming any vessel, boat, or water-craft, or bring, or cause to be brought within the jurisdiction of this state, any vessel, boat, or water-craft, with intent that such boat or water-craft shall be employed to disturb the peace and tranquility of the United States, or any one of them, or any territory of the United States, or any of its dependencies; or if any person or persons within the jurisdiction of this state, shall raise, or attempt to raise, or enlist any person or party, or shall attempt to march or pass through this state by land or water, with any person, party or army; or if any person shall knowingly enlist or engage in any project or enterprize within the jurisdiction aforesaid, with intent to act against the peace and tranquility of the United States, or any one of them, or any territory of the United States, or any of its dependencies as aforesaid; every such person or persons so offending, shall, upon conviction before any circuit court within this commonwealth, be fined in a sum not exceeding two thousand dollars, and imprisoned for a term not exceeding one year; and every such vessel, boat, or water-craft, with all her apparel and furniture, together with all materials, arms, ammunition, or military stores, which may have been procured for the building or equipment thereof, shall be forfeited, one half to the use of any informer under this act, and the other half to the commonwealth.

Sec. 2. *And be it further enacted*, That if any person or persons shall begin or set on foot, or provide or prepare any vessel, boat or water-craft, or any materials, arms, ammunition, or military stores, for any military expedition or enterprize, with intention to disturb the peace and tranquility of the United States, or any one of them, or any territory of the United States, or any of its dependencies, or with such intention shall enter or bring within the jurisdiction of this state, any vessel, boat or craft, or any materials, arms, ammunition, or military stores; or if any person or persons shall raise, or attempt to raise, enlist, or engage any person, party or army, or attempt to march or pass through this state by land or water, with an army or party; or if any person shall knowingly engage or enlist in any project or enterprize, with intent to act against the peace and tranquility of the United States as aforesaid, it shall and

1806.

any unlawful  
warlike enter-  
prize.

Or raise troops.

Penalty.

If such prepara-  
tions are com-  
menced in other  
states.And the parties  
concerned, at-  
tempt, pass  
through this  
state.

1806. *may be lawful for the governor of this commonwealth, or such other person or persons as he may specially empower for that purpose, or any judge of the circuit courts, or justice of the peace, to issue his warrant to any sheriff, coroner, or constable, authorising and requiring such officer to arrest and secure such person or persons, and to take possession of such vessels, boats, or craft, ammunition, arms, materials, and military stores, as aforesaid.*

*The governor may have them arrested.*  
*Or on warrant from a circuit judge or justice of the peace.*

*Sec. 3. And be it further enacted, That where any person or persons shall be arrested as aforesaid, it shall be the duty of the officer so arresting him, to make return of his warrant to, and convey the person or persons before one of the judges of the circuit courts of this commonwealth, whose duty it shall be, if upon examination he finds probable cause for such arrest, he shall commit the person or persons so arrested to jail, unless he or they shall give sufficient security to appear before the next circuit court, to be held where the arrest may have been made, to answer the charges which may be laid in an indictment, which it shall be the duty of the attorney for the commonwealth to file against him, and in the mean time, that he or they will engage in no enterprise or project hostile to the peace and tranquility of the United States, or any one of them, or any territory of the United States, or any of its dependencies.*

*Duty of the officer arresting.*  
*And of the judge before whom the party is brought.*  
*Attorney for the commonwealth to indict.*

*Sec. 4. And be it further enacted, That when any vessel, boat, or craft, or any arms, ammunition or military stores, shall be taken possession of, and detained in manner aforesaid, it shall be the duty of the officer so detaining them, to keep them securely, until the next session of the circuit court for the circuit in which they may be so detained, in order to carry into effect the prohibitions and penalties of this act.*

*Officer who detains any boat, &c. his duty.*

*Sec. 5. And be it further enacted, That where it may appear to the governor of this commonwealth, or to the agent by him to be appointed by this act, that the civil authority is inadequate to carry the provisions aforesaid into effect, it shall and may be lawful for the governor to employ such part of the military power of the commonwealth, as he may judge necessary.*

*Governor or his agent, may employ military power, if necessary.*

*Sec. 6. And be it further enacted, That if any sheriff, coroner, or constable, or other officer, to whom any warrant under this act may be directed as aforesaid, shall*

*Sheriff, &c. refusing to act.*

refuse or neglect to obey the direction thereof, or shall not use all possible exertions to carry into effect the said warrant, or shall not convey any person in manner aforesaid, or shall not keep secure the said vessels, boats, or craft, or the said arms, ammunition, materials and military stores; such officer shall, on conviction thereof before any circuit court, be fined in a sum not exceeding one thousand dollars, and imprisoned not exceeding one year. 1806.

How punished.

Sec. 7. *And be it further enacted*, That the governor is hereby authorised and required to appoint the commanding officer in each county bordering on the Ohio, or some other fit person, whose duty it shall be to examine all vessels, boats, or craft, passing down the Ohio, and to stop and search the same, if to him it may appear right, under the provisions of this act. Further powers of the governor.

Sec. 8. *And be it further enacted*, That the governor of this commonwealth may, and he is hereby authorised to appoint an agent or agents, to attend at such place or places as he may think proper, and vest such agent with such powers to call on the militia to aid him in arresting any boat or craft, with all persons belonging thereto, as he may think proper. May appoint agents.

Sec. 9. *And be it further enacted*, That the governor may, and he is hereby authorised to draw on the treasurer for any sum not exceeding one thousand dollars, to carry this act into effect, if he find the same necessary: *Provided, however*, that nothing in this act contained shall be so construed as to alter the mode of proceedings against, or the punishment of any person who may be prosecuted for treason, or offences committed against the laws of the United States, or of this state, not herein specially named. And draw on the treasury for 1000 dollars.

This act shall commence and be in force from and after the passage thereof, and to remain in force until the end of the next session of the assembly. Commencement & duration of this act.

#### CHAPTER CCCLXXXV.

*An ACT to amend the act entitled "an act to amend the act incorporating the Ohio Canal Company."*

Approved December 26, 1806.

SECTION 1. *BE it enacted by the general assembly*, That the president and directors of the Ohio canal com-

1806.

pany shall continue in office until the first Monday in April 1808, and they shall continue to exercise, until that period, all the powers with which they are now vested, and on the said first Monday in April 1808, an election shall be held for another president and directors, agreeably to the directions of the act passed the last session of the general assembly incorporating the said Ohio canal company.

Sec. 2. *And be it further enacted*, That in case of the death, resignation or removal of the said president, or any one or more of the said directors, such vacancy shall be filled by the directors, in the same manner as is directed by the before recited act.

#### CHAPTER CCCLXXXVI.

*An ACT regulating the Collection of Fines within this Commonwealth.*

Approved December 26, 1806.

WHEREAS it is represented to the present general assembly, that much money due to the different counties, is withheld by the different officers who have collected fines, forfeitures, &c. under the riot and other penal laws of this state, by reason of justices of the peace refusing to give a copy of their records when called on for that purpose :

Justice of the  
peace to deliver  
list of fines to  
the clerk.

Sec. 1. *Be it enacted by the general assembly*, That it shall be the duty of each and every justice of the peace in the commonwealth, on or before the tenth day preceding the first day of the court of claims in the county where he shall reside, to present to the clerk of the county court of the county, a complete list of all fines laid by himself, or by juries under his direction, stating therein, in the first place, whom the fine was laid on ; secondly, for what offence ; thirdly, the day and date ; fourthly, the constable's or other officer's return on execution for said fine, under the penalty of one hundred dollars for each failure, without a reasonable excuse.

Constable to  
pay over to the  
clerk.

Sec. 2. *Be it further enacted*, That each constable or other officer who may have any fines to collect which go to lessen the county levy, shall, within ten days before the court of claims for his county, in every year,

pay to the clerk of the county court, all such sums as he may have collected, together with a statement of the fines and delinquent culprits, if any, under the penalty of ten dollars for every offence, and one hundred per centum damages for what may appear in his hands unpaid.

1806.

Sec. 3. *Be it further enacted*, That every justice of the peace who may heretofore have been, or shall hereafter be out of office, by resignation, or otherwise, deliver a list of fines and forfeitures, agreeably to the rules and regulations contained in this act, and those already out of office, to the next court of claims for their respective counties, after the tenth day of July next, and those that may hereafter go out of office, to the court of claims next thereafter; and for so failing to do, shall be subject to the same penalty as is herein before expressed.

How justices  
out of office to  
proceed,

Sec. 4. *Be it further enacted*, That each justice, or other person who may have possession of their records, shall, on application of any person, deliver to such person, a fair copy, attested by him, of any record of the proceedings of such justice; for which copy or copies, they shall be allowed fifty cents; and for failing so to do, without reasonable excuse, shall forfeit to the party so applying, ten dollars, to be recovered by warrant.

Justice to give  
copy.

Sec. 5. *Be it further enacted*, That it shall be the duty of the clerk of the circuit court, in each circuit, on or before the tenth day preceding the court of claims for the county in which such circuit court shall be held, to deliver to the clerk of the county court a complete list of all fines inflicted by such circuit court, together with the returns of the sheriff or other officer whose hands such fines have been put into for collection, under the penalty of twenty dollars for each offence; and it shall also be the duty of such clerks to include in the first list as directed by this act, all fines not heretofore accounted for, under the penalty aforesaid.

Duty of clerks.

Sec. 6. *Be it further enacted*, That it shall be the duty of the county courts, at the time authorised by law for laying the county levies, on motion of the attorney for the county, or otherwise, as the case may be, to enter up judgment against each and every person failing to comply with the requisitions of this act; and that, without notice, the court, on good cause shewn, may continue until the next succeeding term, beyond which no conti-

Duty of county  
courts.

1806. nuance shall be granted; and on entering up such judgment or judgments as aforesaid, the clerk shall tax the attorney's fee, and such other fees as are allowed for similar services, and award execution accordingly, which shall be endorsed "No security to be taken."

Sec. 7. *And be it further enacted*, That the sheriff shall account for all such money in the same manner and under the same regulations that sheriffs are now bound to account for the county levies; and in case of failure, judgment shall be entered in like manner.

To commence. This act shall commence and be in force from and after the first day of April next.

#### CHAPTER CCCLXXXVII.

##### *An ACT for the procurement of a Fire Engine.*

Approved December 26, 1806.

*BE it enacted by the general assembly*, That the governor be, and he hereby is requested to contract with some person for the procurement of a fire engine, for the use and security of the public buildings in the town of Frankfort; and that the auditor issue his warrant on the treasurer, on application of the governor, for the amount, which shall be paid out of any money in the treasury. And such engine, when procured, shall be under the direction of the executive for the time being; *Provided*, the price of the said fire engine shall not exceed the sum of seven hundred dollars, including all expenses.

#### CHAPTER CCCLXXXVIII.

##### *An ACT for the benefit of William Ousley.*

Approved December 26, 1806.

As commissioner of the wilderness road, he had expended, in repairing it, \$7 dollars 30 cents more than he had received from the keeper of the turnpike. This act directed the said keeper to pay it.

#### CHAPTER CCCLXXXIX.

##### *An ACT for the benefit of the Heirs of John Reed, deceased.*

Approved December 26, 1806.

John Reed, in his lifetime, had purchased a number of certificates from guards on the frontiers. The auditor doubting whether he had authority to issue his warrant for them, this act directed that he should.



XV. YEAR OF THE COMMONWEALTH.

377

CHAPTER CCCXC.

1806.

*An ACT concerning the Town of Danville.*

Approved December 26, 1806.

WHEREAS it is represented to the present general assembly, that the several laws heretofore passed concerning the town of Danville, have proved ineffectual, and it is expedient that there should be some certain regulations concerning said town: therefore,

Preamble.

Sec. 1. *Be it enacted by the general assembly,* That it shall and may be lawful for the free male inhabitants of the said town, and within one quarter of a mile of the limits of the same, and who shall have attained to the age of twenty-one years or upwards, to meet at the house of Jeremiah Clemons, Esq. in the said town, on the second Monday in February next, and on the second Monday in January in each year thereafter, and to elect seven trustees for the said town; which trustees shall possess the qualifications hereafter ~~mentioned~~, and a majority of them so elected, shall be sufficient to constitute a board, who shall be, and they are hereby authorised to make such by-laws for the government and regulation of the said town as to them shall seem proper, not inconsistent with the constitution and laws of this commonwealth. The said trustees, or a majority of them, shall have full power and authority to impose a tax annually, not exceeding three hundred dollars, on any property, real or personal, within the said limits, as to them shall seem proper and just, to be by them appropriated for the improvement and use of the said town, in such manner as they may direct.

Trustees to be elected, how, when, and by whom.

Their powers & duties.

To make by-laws.

Lay a tax, and how applied.

Sec. 2. *And be it further enacted,* That no person shall be elected a trustee, or qualified to act as such, unless he shall have attained to the age of thirty years, and shall reside within the said limits, and be the fee simple owner of real property in the said town; and the said trustees so elected, shall have power to regulate the market of the said town, and to inflict a fine not exceeding five dollars for each and every breach of their by-laws, to be sued for in their names, and recovered before any justice of the peace.

Qualification of trustees.

Power to regulate the market, &c.

Sec. 3. *And be it further enacted,* That the first election to be holden on the second Monday in February next, at the house of Jeremiah Clemons, Esq. for the

Elections, how, and by whom conducted.

1806.

E And

purpose of electing trustees under the directions of this act, shall be conducted and holden by two justices of the peace for the county of Mercer. The said justices shall have power to appoint a clerk *pro tempore*, for the purpose of assisting in said election. And it shall be the duty of the justices, who may hold the said election within three days thereafter, to deliver, or cause to be delivered to each of the trustees so elected, a certificate of his election, under their hands or seals; and each of the said justices shall be allowed one dollar per day during the time they may be engaged in holding the said election, to be paid by the said trustees out of any money which may be levied and collected under the direction of this act.

Further regulations as to elections.

E Shall

Sec. 4. *And be it further enacted*, That the two justices who hold the said election, shall be appointed by the county court of Mercer; and the said justices, when so appointed, shall give ten days previous notice of the day of such election, at least at three of the most public places in the said town; and it shall be the duty of the said justices who may hold the said election, to return to the clerk to be by them appointed *pro tem.* the names of the trustees which may be elected, and which shall be by him recorded in a journal to be provided for that purpose; and the said trustees, before they act as such, shall take an oath, to be administered by any justice of the peace, to discharge the duties of their offices as trustees, without favor, partiality or affection.

Meetings of the trustees.

To appoint a clerk, and his duties.

Sec. 5. The said trustees shall, on the first Saturday after the said election, meet at the house of the said Jeremiah Clemons, in the town of Danville, and at such other times and places as they may think necessary for the internal policy of said town. And the said trustees, or a majority of them, at their first meeting, shall appoint a clerk, who shall hold his office until the next annual election, but for good cause, may be removed, and the clerk so appointed, before he enters on the duties of his office, shall take an oath, to be administered by either of the trustees, that he will, to the best of his skill and ability, make true entries of the proceedings of the said board of trustees, and that he will safely keep the books and papers given him in charge, and shall moreover acknowledge himself to be responsible to the said board of trustees, and their successors, for any neglect

# XV. YEAR OF THE COMMONWEALTH.

379

or malfeasance in office, and entry thereof shall be made on the journals of said board ; and the clerk of said board is hereby authorised to administer an oath to any person who may come before the said board to give testimony, and is hereby also authorised to issue a subpoena or subpoenas on the application of either of the trustees, for any witness or witnesses, whose testimony may be deemed necessary in any matter of controversy depending before the said board, which subpoena may be directed to any sheriff or constable of the county where such witness may reside, whose duty it shall be to execute and return the same, and if any witness so summoned, shall fail to attend the said board, he or she shall be fined by the said board in any sum not exceeding five dollars, unless he or she shall shew good cause why he or she did not attend, having been first summoned to shew cause ; and if any sheriff or constable who shall receive any subpoena, shall fail to execute and return the same, he shall be fined in any sum not exceeding ten dollars, unless he can shew good cause why the same was not executed and returned, having been first summoned for that purpose ; and the said board are authorised to make their clerk such compensation for his services as they may deem reasonable, to be paid out of any money which may be collected under this act.

1806.

*E. Luch*

Sec. 6. And the said board, at their first meeting shall cause their clerk to enter on their journals the certificate of their election, they shall also at their first meeting, choose a president from their own body, who shall be styled the president of the board, and shall hold his office until the end of the next annual election, and a president shall be then chosen at the first meeting after each annual election.

President to be chosen.

Sec. 7. The said board of trustees may, and they are hereby authorised, at such time as they may think proper, to appoint a commissioner for the purpose of obtaining a list of each individual's property, both real and personal, within said town and the limits aforesaid ; which commissioner, before he enters on the duties of his office, shall take an oath, to be administered by some justice of the peace or one of the said trustees, that he will to the best of his skill and ability, without favor, affection or partiality, discharge the duties enjoined on him—that is, that he will immediately and without de-

Commissioner to be appointed, and his duty.

1806.

lay call on each person whose property may be subject to taxation under this act, and the agents of those who hold property subject to the taxation under this act, for a written list of his or her property, and such as he or she may superintend for the true owner; which list being read over by the said commissioner to the person delivering the same, he or she shall make oath or affirmation, to be administered by the said commissioner, to the truth of the same; and the said commissioner shall value the property so listed, and note the valuation thereof in the said list; and any person or persons who shall hold property in his, her or their own right, or as agent for another, shall refuse to give a list thereof, or shall give a false or fraudulent list, shall be fined by the said board in any sum not exceeding twenty-five dollars, to be appropriated in the manner hereafter directed; and said commissioner shall make a return of the said list of taxable property to the said board, or some member thereof, within three months after his appointment or commission to take such list, under the penalty of three hundred dollars: *Provided, however,* that any person who may think himself aggrieved by the valuation of such commissioner, may appeal to the board of trustees, at their next meeting, who, if they see cause, may reduce such valuation.

Penalty for racing, &c.

Sec. 8. Any person who shall be guilty of running or racing horses in or through the streets of the said town, or shooting at a mark, or throwing long-bullets within said town, shall, for every such offence, if a white or free person, be subject to a fine not exceeding five dollars, to be sued for in the name of the said trustees, before any justice of the peace, and to be applied as hereafter directed; and if a slave, to be whipped at the discretion of any justice of the peace, with any number of lashes not exceeding fifteen.

Sec. 9. And the said trustees, when they have laid and assessed the tax on the property valued as aforesaid, may appoint a collector of the same, whose duty it shall be to collect and account for such tax to the board of trustees, within three months after a list thereof shall be put into his hands: and it shall be the duty of the clerk to deliver such list to the collector: and if any person shall refuse or fail to pay the same, the payment thereof being demanded, the collector is hereby authorised to

Collector to be appointed, his power & duty.

seize and sell so much of his, her or their property, either real or personal, as will be sufficient to pay the tax of such delinquent by him or her due and unpaid; and such collector shall deliver the money so collected to the president of the board of trustees, or the clerk thereof, within five months after his appointment, deducting therefrom such compensation as the board shall previously agree to allow him: *Provided, however,* that before the said collector shall proceed to the said collection, he shall give bond and security to the said trustees, to be approved of by the president of the board, in the sum of six hundred dollars, conditioned for the due and faithful discharge of the duties of his office; and should it so happen that he should fail to comply with the condition of the said bond, the county court of Mercer is hereby authorised, on the motion of the president of the said board, to give judgment against said collector, and award execution for such sum as he should have collected and accounted for under this act, with fifteen per centum damages: *Provided, however,* that ten days previous notice in writing of such motion be given to such collector; or such bond may be put in suit in the Mercer circuit court against said delinquent collector and his security or securities.

1806.

To give bond  
and security.Proceedings  
thereon.

Sec. 10. And whereas it is further represented to the present general assembly, that a seminary of learning hath lately been established in the said town of Danville, and that the inhabitants of said town have, by subscription, greatly improved the public buildings and lot in said town, by enclosing a part of the public square, plaistering and making other repairs to the court-house thereon, and sinking a well within the said enclosure, for the use and accommodation of the said school; and it is further represented to the present general assembly, that it is expedient that so much of the said public square as is enclosed as aforesaid, and court-house and jail within the same, should be vested in trustees for the use of the said school: therefore,

Sec. 11. *Be it further enacted by the general assembly,* That so much of the public square in the said town of Danville as is at this time enclosed, and all the buildings within the same, shall be, and the same are hereby vested in Willis Green, John Rochester, Jeremiah Clemons, and John L. Bridges, as trustees, for the use and

Public square  
vested in trustees,  
& for what  
purpose.

1806.

Gov. &amp;c.

benefit of said school; and the said Willis Green, John Rochester, Jeremiah Clemons, and John L. Bridges, shall hereafter have and possess the sole dominion over the same, for the use of said school: *Provided nevertheless*, that the said Willis Green, John Rochester, Jeremiah Clemons, and John L. Bridges, or their successors, shall not have any power or dominion over the said enclosure and buildings, or any part thereof, from and after the time that any court of justice shall be directed by law to be holden in the said town, or the said lot and buildings shall be applied to other public use by law: *Provided also*, that the legislature of this state shall at all times possess the power of altering, amending or repealing any or all of the provisions of this act, or the privileges thereby granted, whenever they may deem it expedient.

Vacancies, how filled,

Sec. 12. And on the death, resignation or removal of either of the said trustees, or their successors, the remainder of the said trustees shall have power to appoint any other person to fill such vacancy; and they shall, under their hands and seals, certify to the county court of Mercer the persons' names by them so appointed, which certificate shall be recorded by the clerk of said court.

Trustees to give bond, and for what.

Sec. 13. *And be it further enacted*, That before the said trustees shall by virtue of this act exercise any power or dominion over the said enclosed ground or buildings, they shall give and execute bond and security, to be approved of by the county court of Mercer, in the penal sum of five thousand dollars, payable to the governor for the time being and his successors in office, conditioned that they will not directly or indirectly do or cause to be done any injury to the said enclosed ground, or to the said buildings, during the time they may hold the same by virtue of this act; which bond shall be filed in the office of the clerk of said court; and for a breach of the condition of said bond, the same may be put in suit in any court of record having cognizance thereof, and all sums which may be recovered for a breach of the condition of said bond, shall be for the use of the county of Mercer.

Powers of the trustees to punish trespasses.

Sec. 14. And the said trustees are hereby authorised to commence any action or actions which they may deem necessary, against any person who shall do or com-

mit any damage or injury to the said enclosure or buildings, and all sums which shall be so recovered shall be for the use of the said trustees.

1806.

Sec. 15. *And be it further enacted by the general assembly,* That should any vacancy take place in the board of trustees of the town of Danville, by death, resignation, or removal, between the annual elections, the remaining trustees shall have power to elect some fit person to fill such vacancy, who shall hold his office until the next annual election.

Vacancies, how filled for trustees of the town.

Sec. 16. And the clerk of the board of trustees shall, on the order or judgment of the said board, collect all fines imposed by this act, the collection of which is not otherwise provided for, and all fines imposed for breaches of the by-laws of said town. And in the said collection he shall be governed by the same rules and regulations under which money is collected by virtue of any writ of *feri facias*: *Provided nevertheless*, that no person on whom a fine shall be imposed under this act, shall have a right to replevin. And the said clerk shall pay all sums by him collected to the president of the board, at their next meeting after he may have collected the same; and the money so collected shall be appropriated to the use of said town, in such manner as the trustees may direct.

Fines, how collected and accounted for.

Sec. 17. And the said board of trustees shall, and they are hereby authorised to call on any clerk of any former board of trustees of the said town, for any money in his hands, which has been collected for the use of said town, and which may be unappropriated; and should he fail to pay the same, the county court of Mercer is hereby authorised to give judgment on motion in the name of the said trustees against said delinquent, for all sums in his hands and unappropriated: *Provided*, such clerk shall have ten days previous notice in writing of such motion.

Further powers of the trustees.

This act shall commence and be in force from and after its passage.

To commence.

1806.

## CHAPTER CCCXCI.

*An ACT providing for the erection of a Ware-House at Doom's Inspection, and establishing an Inspection in Hardin County.*

Approved December 26, 1806.

See the preface to Chap. 58, of Vol. I.

Preamble.

WHEREAS an inspection of flour, hemp and tobacco, hath been established by law, on the lands of Jacob Doom, at the mouth of Hardin's creek, in the county of Washington; and it is represented to the present general assembly, that the said Jacob Doom departed this life before he had it in his power to erect a warehouse at the said inspection, leaving his heirs and representatives minors; in consequence of which, no person is authorised to erect a warehouse at the said inspection, which said inspection would be of great public advantage and convenience, and would be rendering the property of the heirs and representatives of the said Jacob Doom more valuable:

County court of Washington to appoint commissioners.

Commissioners to lay off ground and contract to erect a warehouse.

Conditions.

*in good repair*

When commissioners to return bond, & where.

Sec. 1. *Therefore, be it enacted by the general assembly,* That the county court of Washington be, and they are hereby authorised to appoint five commissioners, any three or more of whom are hereby authorised to lay off by metes and bounds, two acres of land, at the mouth of Hardin's creek, the property of the heirs of the said Jacob Doom, deceased, and contract with any person or persons who may be willing, for the erection of a warehouse thereon, upon the following terms and conditions, to wit: that the said person or persons shall enter into bond with good and sufficient security, that he or they will erect a good and sufficient warehouse, agreeable to law, on the said land, and keep and deliver the same to the heirs of the said Jacob Doom, deceased, when the youngest of them shall attain full age: in consideration for which, the person or persons giving the bond and security as aforesaid, shall be entitled to have and enjoy all profits and emoluments arising therefrom for and during the period aforesaid.

Sec. 2. *Be it further enacted,* That the said commissioners shall report within one month after making the said contract, to the county court of Washington, and return to it the said bond, who shall cause the same to be recorded therein, and to be safely kept by their clerks.



until the youngest of the said heirs shall arrive at full age. And if the said undertaker or undertakers shall have failed to build either a good and sufficient ware-house agreeable to law, or shall not deliver the same in good repair to the said heirs, it shall and may be lawful for them to bring suit on said bond, and recover such damages as may be assessed by a jury.

1806.

Regulations re-  
specting the un-  
dertakers.

Sec. 3. *And be it further enacted*, That upon the arrival at full age of the youngest heir of the said Jacob Doom, deceased, the said two acres of land, together with the said ware-house, and other appurtenances thereon, shall revert to, and be vested in the said heirs, to be disposed of agreeably to the last will and testament of the said Jacob Doom, deceased.

When to be  
vested in the  
heirs.

Sec. 4. *And be it further enacted*, That an inspection of tobacco, hemp and flour, be established on the lands of Abraham Rife, on Green river, in the county of Adair, to be called and known by the name of Rife's inspection; to be subject to the like rules and regulations as other inspections of the like kind are by law.

Rife's inspec-  
tion.

This act shall be in force from its passage.

## CHAPTER CCCXCII.

*An ACT providing for the payment of the Debt due this Commonwealth for the sale of Vacant Lands.*

Approved December 27, 1806.

See the prælection to Chap. 220, of Vol. I.

WHEREAS it is represented to the present general assembly, that those persons who are indebted to this commonwealth for lands acquired under the several acts of assembly for the relief of settlers on the south side of Green river, for encouraging and granting relief to settlers, and for settling and improving the vacant lands of this commonwealth, and the several acts amendatory and explanatory thereof, are unable to pay the sums now due, or to become due to the state, within the time limited by law: and whereas it is deemed good policy to give reasonable indulgence to such debtors, and by putting it in their power to discharge their debts, thereby to ensure punctuality in payment, and cut off all hopes of future indulgence, under any pretence whatever:

Preamble.

1806. *Sec. 1. Be it therefore enacted by the general assembly,* That the whole amount of monies now due, and to become due this commonwealth, for any tract of land acquired under, and by virtue of the several acts aforesaid, together with the interest due thereon, shall be discharged in twelve equal annual instalments; the first to be paid on the first day of December next, and on that day on every succeeding year, until the whole shall be paid in the term aforesaid: *Provided, however,* that the state be entitled to an interest of six per cent. per annum on the principal now due for said lands, until the same shall be paid into the public treasury.

*Sec. 2. And be it further enacted,* That if any instalment hereby allowed on any tract of land, shall not be paid on or before the first day of December next, and on that day annually thereafter, the lands upon which such instalment shall not be paid as aforesaid, shall be disposed of as follows, to wit: the auditor of public accounts shall, within fourteen days after the first day of December in every year, transmit to the register a list of all certificates and entries upon removed certificates, upon which the instalments may not then have been paid, shewing the amount due this commonwealth on the day such instalment became due, and the amount to become due; and the register shall, on the third Monday in December in every year, proceed at the state-house to sell at public auction, for ready money, all lands upon which the instalment and interest shall not have been paid according to the requisitions of this act, taking for his guide the aforesaid list of the auditor, and shall continue to sell from day to day, until the whole is disposed of, and shall sell not less than fifty tracts on each day: *Provided, however,* that no tract shall be sold at a less price than will pay the instalments and interest due thereon; and that all sales shall be made subject to the lien of the commonwealth on the land for the original purchase money or state price: *And provided,* that all tracts which shall not command the instalments and interest aforesaid, shall be struck off to the state, and be liable to the future disposal of the legislature, redeemable, however, at any time within two years from the day of sale, upon the payment into the public treasury of the instalment and interest for which it was sold, with an interest of 25 per centum per annum, from

Land to be paid for in 12 equal instalments.

At what time.

Subject to an interest of 6 per cent. per annum.

On failure of payment, to be sold.

Where & when.

Proviso.

May be redeemed within two years.

the day of sale to the day of redemption; and also such instalment or instalments as may have become due upon said land after the sale, and before, or on the day of redemption: *And provided also*, that the purchaser of any tract of land sold as aforesaid, shall pay the instalment or instalments which may become due on the land after his purchase, in the same manner; and in case of failure, the land shall be subject to sale in like manner, and at the same time, as if it had remained the property of the former owner: *And provided also*, that no sale to be made by virtue of this act, shall be in any manner impeached on account of any mistake of the auditor in his statement of the amount due on any tract sold as aforesaid, if any part be due.

1806.

*Provido as to purchasers who fail to pay.*

*Sale not to be impeached for error in amount charged.*

Sec. 3. *Be it further enacted*, That if an instalment shall not be paid on any tract of land, and the same shall not be exposed to sale at the sale before directed to be made by the register, next after such instalment became due, either on account of a copy of the certificate or entry not having been transmitted to the auditor, or any other casualty; every such tract of land may be exposed to sale in any subsequent year, for the instalment which may have become due before such sale may take place under the rules and regulations aforesaid.

*Regulation as to tracts not ready for sale.*

Sec. 4. *And be it further enacted*, That if any person or persons shall continue to reside on any land sold by virtue of this act, after being served with a copy of the certificate of the said sale, the purchaser, after the expiration of twenty days, shall have the power of proceedings against such persons as forcible detainers.

*Delinquent claimants may be evicted by purchasers.*

*Noted*

Sec. 5. *And be it further enacted*, That the register shall give to every purchaser under this act, a certificate of his purchase; and the sale so certified shall absolutely pass the land described in the location or entry, and the whole force and effect of the claim shall pass and be vested in the purchaser, and shall not be defeated by any assignment or transfer that may have taken place, or by any other defect or cause whatever, except the instalment or instalments for which such sale shall take place, shall have been paid prior to such sale: *Provided*, that no part of this act shall be so construed as to affect the titles of claimants interfering with any land sold by virtue of this act.

*Register's certificate to vest the title in the purchaser.*

*Provido,*

1806.

Overplus to be  
paid to the ori-  
ginal owner.

Sec. 6. *Be it further enacted*, That it shall be the duty of the register, when a tract sells for more than the instalment and interest due on it, to pay the overplus to the owner of such tract, upon his or her demand; and if such demand shall not be made before the register shall have paid the whole of the money into the treasury as hereinafter directed, the auditor shall issue his warrant on the treasury for the amount of such surplus, which shall be paid accordingly.

Register's duty  
and compensa-  
tion.

Sec. 7. *Be it further enacted*, That it shall be the duty of the register to pay into the treasury all monies received by him in consequence of the sales hereby authorised and directed, subject to a discount of two per cent. for his services, and upon the completion of such sale to return the list furnished him by the auditor, with the names of the several purchasers at the said sale in the margin.

Provisions as to  
removed certi-  
ficates.

Sec. 8. *Be it further enacted*, That where any tract of land, authorised to be sold as aforesaid, shall be purchased by an individual or individuals, and the certificate granted for such tract shall have been removed, the purchaser or purchasers shall be vested with the land acquired by such removal or removals, provided the last tract of land upon which such removed certificate may have been laid, shall be stricken off to the state.

Rights of in-  
fants saved.

Sec. 9. *Be it further enacted*, That where any person who may have taken up land under the before recited acts, in his or her own proper name, and shall have resided thereon until his or her death, without having alienated the same, and his or her right to such land has descended or been devised to his or her child, or children, or grand children, who at the passage of this act may be under the age of 21 years, such tract of land shall not be exposed to sale according to the provisions of this act, until after such infant or infants shall attain full age; provided an affidavit made to the effect aforesaid, by two creditable witnesses, before one of the circuit courts of this commonwealth, be filed with the register before the sale; and if any person shall swear falsely in such affidavit, he shall be deemed guilty of perjury.

Provided notice  
is given to the  
register before  
the sale:

Interest remit-  
ted where pay-  
ment is made in  
two years.

Sec. 10. *Be it further enacted*, That every person indebted to this commonwealth for any tract of land acquired under the before recited acts, who shall pay into the public treasury, within the term of two years from

and after the passage of this act, the whole amount of the state price for said land, shall be entitled to a discount of the interest due and to become due thereon: 1806.  
*Provided*, that this provision shall not be construed to suspend the sale by the register, in case of failure to pay up any instalment and interest. But no person shall be entitled to the benefit of this section, whose land may be sold for the non-payment of any instalment or instalments. Proviso.

Sec. 11. *Be it further enacted*, That the state price for any tract of land for which a certificate may be hereafter obtained under the act passed at the present session, entitled "an act extending the time of obtaining certificates for vacant lands in certain cases," shall be paid in four equal annual instalments—the first to be paid on the first day of December, in the year 1807, and on that day in every succeeding year, until the whole shall be paid: *Provided, however*, that every person who shall pay up the whole amount of the state price on any tract of land referred to in this section, on or before the day on which the first instalment will become due, shall be entitled to a deduction of twenty per centum. Land to be taken up, must be paid in four instalments.  
At what time.  
Deduction for prompt payment.

Sec. 12. *Be it further enacted*, That if any instalment allowed on any tract of land for which a certificate may be obtained after the passage of this act, pursuant to the laws passed, or which may be during the present session, shall not be paid on or before the first day of December next, and on that day annually thereafter, the lands upon which such instalment shall not be paid when it becomes due as aforesaid, shall be disposed of at the same time, and in the same manner, and subject to the like rules and regulations as are provided for other lands in the second section of this act. On failure to pay, land to be sold.

Sec. 13. *Be it further enacted*, That the clerks of the county courts in this commonwealth shall severally transmit to the auditor of public accounts, on or before the first day of November next, a list of all certificates granted by their respective courts, by virtue or under colour of the laws, or any of them, which may have been passed during the present session. Clerks of county courts, their duty as to new certificates.

*Provided always*, That this commonwealth shall have power at any time to provide by law such additional means and regulations to enforce the payment and collection of the monies aforesaid, due and to become due,

1806. as to the legislature may appear expedient and necessary.

This act shall be in force from and after the passage thereof.

### CHAPTER CCCXCIII.

#### *An ACT to establish a State Bank.*

Approved December 27, 1806.

**SECTION 1.** *BE it enacted by the general assembly,*  
 Bank establish- That a bank, to be denominated the Bank of Kentucky,  
 ed. shall be, and the same is hereby established, in the town  
 of Frankfort; but in case of a removal of the seat of  
 government, the bank may be removed therewith.

**Sec. 2.** The capital stock of said bank shall consist of  
 Stock & num- 1,000,000 dollars, to be divided into 10,000 shares, of  
 ber of shares. 100 dollars each, of which 5,000 shares are hereby re-  
 served for the state of Kentucky, to be subscribed for  
 from time to time by the executive thereof, as it shall be  
 found convenient, having due regard to the funds out of  
 which such shares shall be payable; and the other 5,000  
 shares shall be for other subscribers, of which 2,000  
 shares shall be reserved until the corporation shall be  
 organized, and the remaining 3,000 shares may be sub-  
 scribed for in manner hereafter specified.

**Sec. 3.** Subscriptions towards constituting said bank  
 Subscriptions to stock, shall be opened at Frankfort for 500 shares, un-  
 be opened at der the direction of William Trigg, Daniel Weisiger,  
 Frankfort, and George Greer, or any two of them; at Lexington  
 Lexington, for 500 shares, under the direction of Alexander Par-  
 ker, Thomas Hart, jun. and Henry Purviance, or any  
 two of them; at Paris for 200 shares, under the direc-  
 Paris, tion of William Scott (merchant), Thomas Arnold, and  
 Samuel Williams, or any two of them; at Washington  
 Washington, for 200 shares, under the direction of John Machir,  
 Bazil Duke, and Daniel Vertner, or any two of them;  
 Richmond, at Richmond for 200 shares, under the direction of Ro-  
 bert Caldwell, Thomas Howard, and William Irvine,  
 or any two of them; at Danville for 300 shares, under  
 Danville, the direction of James Birney, Robert Craddock, and  
 Joshua Barbee, or any two of them; at Bairdstown for  
 Bairdstown, 300 shares, under the direction of William R. Hynes,  
 Walter Brashears, and John Caldwell, or any two of  
 Louisville, them; at Louisville for 300 shares, under the direction

of Thomas Prather, James Berthoud, and Peter B. Ormsby, or any two of them; at Shelbyville for 100 shares, under the direction of Adam Steele, Wingfield Bullock, and James Bradshaw, or any two of them; at Hartford for 100 shares, under the direction of Daniel Barry, Samuel Rose, and Joshua Crow, or any two of them; and at Russellville for 300 shares, under the direction of Joseph Ficklin, Armstead Morehead, and James Wilson.

1806.

Shelbyville,

Hartford,

Russellville.

Sec. 4. The several subscriptions shall be opened on the first day of March next, or in convenient time afterwards, and continue open until the 30th day of April thereafter, unless sooner filled, and such shares as shall be unsubscribed for on the said 30th day of April, shall be returned to the bank.

At what time.

Sec. 5. The two thousand shares aforesaid, and returned and forfeited shares, shall be subscribed for in such manner and at such times as shall be ordained by the president and directors of the bank.

Reserved shares how to be subscribed for.

Sec. 6. Shares subscribed for, shall be paid by the several subscribers in current money, one fifth thereof at the time of subscribing, one fifth in 90 days, one fifth in 180 days, one fifth in 270 days, and one fifth in 360 days, which days shall be calculated from and after the day of election of the first president and directors.

Shares to be paid for in five installments.

Sec. 7. *And be it further enacted*, That the subscribers to the said bank, their successors and assigns, shall be, and are hereby made a corporation and body politic in law and in fact, by the name and style of the President, Directors and Company of the Bank of Kentucky, and shall so continue until the last day of December in the year 1821, and by the name and style aforesaid, they shall be, and are hereby made able and capable in law, to have, purchase, receive, possess, enjoy and retain to themselves and their successors, lands, rents, tenements, hereditaments, goods, chattels and effects, to an amount not exceeding their capital stock, and one half more, in the whole, including the amount of the capital stock aforesaid; and the same to sell, grant, demise, alien and dispose of; to sue and be sued, implead and be impleaded, answer and be answered, defend and be defended, in courts of record, or any other place whatever; and also to make, have and use a common seal, and the same to break, alter and renew at pleasure; and also or-

Subscribers incorporated.

Style.

Duration.

Power of the corporation.

1806.

tain, establish and put in execution, such by-laws, ordinances and regulations as shall seem necessary and convenient for the government of the said corporation, not being contrary to law and this act; and generally to do and execute all and singular such acts, matters or things as to them shall or may appertain.

Directors and  
president, how  
to be chosen.

Sec. 8. *And be it further enacted*, That for conducting the affairs of the said corporation, there shall be twelve directors and a president, of whom six directors shall be chosen, annually, by the stockholders, at a general meeting to be holden yearly at the office of the said corporation, on the first Monday in January, for that purpose, which election may be continued two days, if necessary; six other of the directors and the president, being citizens of this commonwealth, to be annually chosen on the part of the state, by a joint vote of the senate and house of representatives: *Provided, however*, that the first election of directors shall not be included in the before mentioned regulations, but shall be had at a time and in a manner herein after directed: *And provided, also*, that in case it shall at any time happen that an election of directors should not be made upon any day when pursuant to this act it ought to have been done, the said corporation shall not for that cause be deemed to be dissolved, but it shall be lawful on any other day to hold and make an election of directors, in such manner as shall be regulated by the by-laws of said corporation; and the former president and directors shall continue in office until such new election shall take place. And in case of the death, resignation or absence from the state, of a director, or being chosen president, his place shall be filled for the remainder of the year, by one elected by a majority of the directors: *Provided, also*, that the legislature may from time to time increase the number of directors, to be elected in manner aforesaid, so that the whole number shall not exceed twenty-four.

Proviso.

Vacancies how  
to be filled.

Legislature may  
increase the di-  
rectors.

Commissioners,  
when to make  
returns, and to  
whom.

Sec. 9. *And be it further enacted*, That on or before the first day of June next, the commissioners appointed at the different towns aforesaid, shall respectively transmit and deliver to the commissioners in and for the town of Frankfort, a list of the several subscribers at such places respectively, and of the share or shares to each and every subscriber belonging, together with the



full amount of the subscription money by the commissioners respectively received as aforesaid, for which amount the receipt of the said Frankfort commissioners, or a majority of them, shall be a sufficient discharge to the persons respectively paying the same. 1806.

Sec. 10. *And be it further enacted*, That as soon as the sum of twenty thousand dollars in manner aforesaid, shall be actually received on account of the subscriptions for the stock of said bank, notice thereof shall be given by the commissioners appointed in and for the town of Frankfort, or a majority of them, in at least two newspapers printed in this state; and the same persons shall, at the same time, notify a time and place in the town of Frankfort, at the space of at least thirty days from the time of such notification, for proceeding to the choice of directors: and it shall be lawful for such election to be then and there made; and the six persons being elected directors by the stockholders as aforesaid, the governor of this commonwealth for the time being, shall proceed to choose six other directors and a president; and the twelve directors elected as aforesaid, together with the person appointed president, shall be the first directors and president, and shall be capable of serving until the first Monday in January thereafter, and until their successors shall be duly elected; and the said directors shall immediately thereafter commence the operations of said bank.

Sec. 11. *And be it further enacted*, That the directors for the time being shall have power to appoint a cashier, and such other officers and servants under them as may be necessary for executing the business of the said corporation, removable at pleasure; and to allow them such compensation for their services respectively, as shall be reasonable.

Sec. 12. *And be it further enacted*, That the president and directors for the time being, may make all such rules, orders, by-laws, and regulations; for the government of the said corporation, its officers, and servants, as they, or a majority of them, from time to time, shall think fit, not inconsistent with law, or the provisions of this act; and the same at pleasure to revise, alter and annul; and may use, employ and dispose of the funds, money, and credit of the said bank, as they, or a majority of them, may deem expedient, subject,

1806. however, to the restrictions and limitations herein after mentioned.

Constitution of the bank.

Sec. 13. The following rules, restrictions, limitations, and provisions, shall form, and be fundamental articles of the constitution of the said corporation, viz :

Votes by the stockholders.

I. The number of votes to which each stockholder shall be entitled, shall be according to the number of shares he shall hold, in the proportions following, viz : for one share, and not more than two shares, one vote each ; for every two shares above two, and not exceeding ten, one vote ; for every four shares above ten, and not exceeding thirty, one vote ; for every six shares above thirty, and not exceeding sixty, one vote ; for every eight shares above sixty, and not exceeding one hundred, one vote ; and for every ten shares above one hundred, one vote. But no person, copartnership, or corporation, shall be entitled in his, her, or their own right, or as proxy, to more than thirty votes ; and after the first election, no share or shares shall confer a right of suffrage, which shall not have been holden three calendar months previous to the day of election. All stock-

Limitation.

Stockholders may vote by proxy.

holders who are residents within the United States, and none other, may vote by proxy, provided the proxy be a citizen and resident of this state.

Directors and president must be stockholders.

II. None but a stockholder (except directors chosen on the part of the state) being also a citizen of this state, shall be eligible as a director or president ; and every president or director, as the case may be, shall cease to be a director or president upon his ceasing to be a stockholder.

Directors of other banks not eligible.

III. No director of any other bank shall at the same time be a director of this bank.

Entitled to no emolument except allowed by the stockholders.

IV. No director shall be entitled to any emolument, unless the same shall have been allowed by the stockholders at their general meeting. The stockholders shall make such compensation to the president, for extraordinary services at the bank, as shall appear to them reasonable.

Not less than five to constitute a board.

V. Not less than five directors shall constitute a board for the transaction of business, of whom the president shall always be one, except in case of sickness or necessary absence, in which case his place may be supplied by any other director who shall be chosen president *pro tem.* at a meeting wherein five or more directors shall be present.

## KV. YEAR OF THE COMMONWEALTH.

395

VI. The president and directors, or twenty or more stockholders, who, together, shall be proprietors of one hundred shares, or upwards, shall have power to call a general meeting of the stockholders, for purposes relative to the institution; giving at least four weeks notice in two newspapers printed in this state, and specifying in such notice the object of such meeting.

1806.

Who may call a general meeting.

VII. Every cashier and treasurer, before he enters on the duties of his office, shall give bond, with two or more securities, to be approved of by the directors, in a sum not less than thirty thousand dollars, conditioned for the faithful discharge of the duties of his office.

Cashier, &c. to give bond and security.

VIII. The lands, tenements, and hereditaments, which it shall be lawful for the said corporation to hold, shall be such only as shall be requisite for its accommodation, relative to the convenient transacting of its business, and such as shall have been *bona fide* mortgaged or conveyed in trust to it, by way of security; and the said corporation shall be incapable of acquiring or holding lands, tenements, or hereditaments, except for the purposes aforesaid.

What may be held by the corporation.

*shall*

IX. The total amount of notes thrown into circulation by the said corporation, together with their debts of every description, shall not, at any time, exceed three times the amount of their capital, over and above the monies then actually deposited in the bank, unless the contracting of a greater debt be previously authorised by law; and in case of excess, the directors under whose administration it shall happen, shall be liable for the same in their individual capacities, and an action at law, or in chancery, in such cases, may be brought against them, or any of them, their heirs, executors, or administrators, in any court of record having jurisdiction in such cases, by any creditor or creditors of said corporation, and may be prosecuted to judgment and execution; any condition, covenant, or agreement to the contrary notwithstanding: *Provided, however*, that this shall not be so construed as to exempt the said corporation, or the land, tenements, goods or chattels of the same, from being also liable for the said excess. Such of the said directors as may have been absent when the said excess was contracted or created, or who may have dissented from the resolution whereby the same was contracted or created, may respectively exonerate him-

May issue notes to a certain amount.

Directors liable if they exceed the limitation.

Unless absent, or dissent therefrom.

1806. self or themselves from being so liable, by immediately giving notice of the fact, and of their absence or dissent, to the governor of the state, or to the stockholders, at a general meeting, which they shall have power to call for that purpose.

X. The corporation shall not directly or indirectly deal or trade in any thing except discount bills of exchange, current money, or in the sale of goods or produce really and truly pledged for money lent and not redeemed in time; neither shall the said corporation take more than at the rate of six per centum per annum for or on account of its loans or discounts.

XI. No loan shall be made by the said corporation to any government or state, or to any person or persons residing in any other government, state, or territory; nor shall any director of the said bank, or any branch thereof, have on loan at any one time more than the sum of 5,000 dollars, nor shall he be an endorser at any one time for a greater amount than 10,000 dollars, unless previously authorised by a law of this state.

XII. The stock of said corporation shall be assignable and transferable according to such rules and regulations as shall be prescribed by the ordinances of the same.

XIII. The bills obligatory and of credit under the seal of the said corporation, which shall be made to any person or persons, shall be assignable by endorsement thereon, under the hand or hands of such person or persons, and of his, her or their assignee or assignees, so as absolutely to transfer and vest the property in each and every assignee or assignees successively, and to enable such assignee or assignees to bring and maintain an action thereupon, in his, her or their own name or names. And bills or notes which may be issued by order of the said corporation, signed by the president and countersigned by the principal cashier or treasurer thereof, promising the payment of money to any person or persons, his, her or their order, or to the bearer, though not under the seal of the said corporation, shall be binding and obligatory upon the same, in the like manner and with the like force and effect as upon any person or persons if issued by him or them in his or their private and individual capacity or capacities, and shall be assignable & negotiable in like manner as if they were so issued by

such person or persons—that is to say, those which shall be payable to any person or persons, his, her or their order, shall be assignable in like manner and with the like effect as foreign bills of exchange now are, and those which are payable to the bearer shall be negotiable and transferable by delivery only: and all notes or bills at any time discounted by the said corporation, shall be, and they are hereby placed upon the same footing as foreign bills of exchange, so that the like remedy may be had for the recovery thereof against the drawer or drawers, endorser or endorsers, and with the like effect (except so far as relates to damages), any law, custom or usage to the contrary notwithstanding.

1806,

Notes discounted, recoverable as foreign bills of exchange.

XIV. Half-yearly dividends shall be made of so much of the profits of the bank as shall appear to the directors advisable; and once in every year at a meeting to be holden for the choice of directors, those of the preceding year shall lay before the stockholders, for their information, an exact and particular statement of the general accounts, and state of the corporation, and of the debts which shall have remained unpaid after the expiration of the original credit, for a period of treble the term of that credit, and of the surplus of profit, if any, after deducting losses and dividends. If there shall be a failure in the payment of any part of any sum subscribed by any person, copartnership or body politic, the party failing shall lose the benefit of any dividend which may have accrued prior to the time for making such payment, and during the delay of the same.

Dividends to be made half yearly.

Statement of accounts to be laid before the stockholders.

Subscribers failing to pay, get no dividend.

XV. It shall be lawful for the directors aforesaid to establish offices wheresoever they shall think fit, within this state, for the purpose of discount and deposit only, and upon the same terms and in the same manner as shall be practised at the bank; and to commit the management of the said offices, and the making of the said discounts, to such persons, under such agreements, and subject to such regulations as they shall deem proper, not being contrary to law or the constitution of the bank.

Offices of discount & deposit where to be established.

XVI. The governor of Kentucky shall be furnished from time to time, as often as he may require it, not exceeding once a week, with statements of the amount of the capital stock of said corporation, and of the debts due to the same, of the monies deposited therein, of the

Weekly statements to be furnished the governor.

1806.

And the legis-  
lature annually,  
if required.

notes in circulation, and of the cash in hand; and shall have a right to inspect such general accounts in the books of the bank as shall relate to the said statements; and the legislature shall be furnished annually during their session, if they require it, with the like statements; and they, or a committee of them, for that purpose appointed, shall have a right to inspect such general accounts in the books of the principal bank, or any of its branches, as shall relate to the said statements: *Provided*, that this shall not be construed to imply a right of inspecting the accounts of any individual or individuals, copartnership or body politic or corporate with the bank.

Dividends how  
to be made.

XVII. The state and individuals who may have subscribed to said corporation, shall be entitled to dividends in proportion to the monies actually paid to said bank by them respectively.

Penalty for  
dealing contra-  
ry to this act.

Sec. 14. *And be it further enacted*, That if the said corporation, or any person or persons for or to the use of the same, shall deal or trade in buying or selling any goods, wares or merchandize whatsoever, contrary to the provisions of this act; all and every person or persons who shall have given any order or direction for so doing, and all and every person or persons who shall have been concerned as parties or agents therein, shall forfeit and pay double the value thereof, one half to the use of the informer, and the other half to the use of this commonwealth, to be recovered with costs in any court having competent jurisdiction.

Notes, &c. re-  
ceivable in pay-  
ments to this  
state.

Sec. 15. The bills or notes of the said corporation originally made payable, or which shall have become payable on demand in current money, shall be receivable in all payments to this state.

Governor to  
certify to the  
auditor when he  
subscribes for  
state shares.

Sec. 16. When the governor shall subscribe for any shares in pursuance of this act, he shall certify the same to the auditor, who shall accordingly issue ~~the~~ warrant or warrants on the treasurer in favor of the bank, for any monies due by such subscription, which shall be payable out of such fund or funds as shall by law be set apart for that purpose.

Debt due for  
vacant land to  
pay for state  
shares.

Sec. 17. *Be it further enacted*, That the whole of the principal and interest due, or which may hereafter become due for vacant lands taken up under the authority of this state, agreeably to the several laws now in force,

or which may pass during the present session, except so much of the said debt as has heretofore been appropriated by law, shall be, and the same is hereby appropriated and pledged for the special purpose of paying for the shares which may be subscribed on behalf of this commonwealth. 1806.

Sec. 18. *And be it further enacted*, That when the amount of shares contemplated to be subscribed for on behalf of the commonwealth, shall be paid from the proceeds of the debt aforesaid, the balance, if any, shall be subject to the future disposition of the legislature. Balance reserved for the disposition of the legislature.

Sec. 19. *And be it further enacted*, That no note or obligation of any copartnership, corporation, or individual, shall be negotiable at the bank, unless it be so expressed on the face of said note, except the note or notes of some bank or monied institution authorised by law. What notes negotiable at the bank.

Sec. 20. Wheresoever subscribers, shareholders, or stockholders, are mentioned in the foregoing act, it shall be understood to mean the subscribers, shareholders, or stockholders, other than the state, except where the state is specially mentioned. The legislature hereby reserve to themselves the privilege of modifying or changing the provisions of this act, so as not to alter the time for which the corporation is established, or diminish the amount of the capital stock, or establish by law any branch bank. Explanatory clause. Legislature may modify this act, under certain restrictions.

This act shall be in force from and after its passage. To commence.

#### CHAPTER CCCXCIV.

*An ACT to change the time of the annual meeting of the Legislature.*

Approved December 27, 1806.

*BE it enacted by the general assembly*, That the annual stated meeting of the legislature shall commence on the fourth Monday in December in every year.

#### CHAPTER CCCXCV.

*An ACT for the further regulation of the Penitentiary House.*

Approved December 27, 1806.

See Vol. II, Chap. 4, and the preface.

SECTION 1. *BE it enacted by the general assembly*, Inspectors dis-  
That (excepting the governor) the residue of the inspec- continued, and

1806. <sup>governor sole</sup>  
 inspector. tors of the penitentiary be, and they are hereby discontinued; and the governor shall hereafter be the inspector, and shall hold all the powers which by law were exercisable by the inspectors jointly or severally: and the duties of said trust may be performed by himself or such fit person as he shall appoint for that purpose, whenever he shall find personal attention inconvenient; and hereafter the jail and penitentiary house may, in courts of justice and elsewhere, be styled "the penitentiary house," but it shall not be error to call it as heretofore.

His duty. Sec. 2. The keeper of the penitentiary house may employ any number of watchmen authorised by law, whenever he thinks it necessary, who shall be allowed for their services a compensation by the keeper, but which shall be approved by the governor.

Style of the institution. Sec. 3. It shall be the duty of the keeper to purchase and administer such medicine to the convicts as shall seem right; and when in his opinion the skill of a regular physician shall be necessary, he may engage such. And the keeper shall, once at least, in each year, render to the governor an account of the medicines' cost, and the account paid or assumed to a physician, for services aforesaid, who, upon being satisfied of the reasonableness thereof, shall allow and certify the same to the agent of the penitentiary house, who shall pay the amount so certified out of any funds belonging to the said institution.

Further duty of keeper. Sec. 4. The keeper shall have the power from time to time, with the approbation of the inspector, to establish such rules and regulations for the government of the convicts in the yard of the penitentiary house, as he shall judge necessary; and in case of disobedience by any convict to perform his or her duty, or of a violation of any rule or order, the keeper may inflict punishment proportionate to the offence, by confinement to the solitary cells, or by stripes, at his discretion: *Provided*, that in no case shall the number of stripes exceed ten for the same offence at any one time, nor the confinement exceed forty-eight hours at one time for the same offence.

Agent to pay certain accounts. Sec. 5. The keeper of the penitentiary house and agent shall be subject to removal from office in the same manner that civil officers may be by impeachment, or the

Keeper may inflict punishment, & how.

How keeper & agent removed.



address of two-thirds of both branches of the legislature, and not otherwise.

1806.

Sec. 6. The keeper shall have the power of discharging any of the watchmen at pleasure; but such watchman shall be entitled to his compensation until the time of his discharge. And the keeper shall be entitled to ten in lieu of five per cent. on the amount of labor of the convicts, when it may be sold, besides his salary allowed now by law.

Keeper may discharge the watchmen, &c.

Addition to the keeper's salary.

Sec. 7. The agent of the penitentiary house shall receive for his services four hundred dollars per year, and no more, to be paid quarterly out of any money arising from sales of articles manufactured in the penitentiary house, or the labor of the convicts. And if there shall be a deficiency arising from the labor of the convicts, such deficiency, certified and approved by the inspector, shall be allowed by the auditor, who shall issue his warrant on the treasury for the amount of such deficiency.

Agent's salary.

How paid.

Sec. 8. The privilege of giving a replevin bond or forthcoming bond, or of selling property on a credit, shall not be extended to those against whom judgment shall be entered on contracts made with the agent of the penitentiary house, or his agents, for and on behalf of the said institution. But on every execution in such case, the clerk or justice issuing the same shall endorse "No security to be taken."

Replevin and forthcoming bonds prohibited.

Sec. 9. It shall be the duty of the agent, with the consent of the inspector, to appoint suitable agents in different parts of this commonwealth, to sell articles manufactured in the penitentiary house, on such commission as he may think proper and is usual; and the receipt given for such articles shall entitle the agent to a credit for the amount until sale and collection thereof. The agent shall have the books ready for settlement by the meeting of the legislature in every year, and shall produce the same for the inspection of a joint committee of the legislature, whenever called on. The agent of the penitentiary house shall be authorised to furnish twelve stand of arms, and the necessary ammunition, for the use of the penitentiary house, for which he shall be allowed in the settlement of his accounts.

Agent to appoint agents.

Regulating duty of agent.

This act shall commence and be in force from the passage

To commence.

1806.

## NOVEMBER SESSION,

## CHAPTER CCCXCVI.

*An ACT concerning Arson.*

Approved December 27, 1806.

See Vol. II, Chap. 4, and the prædiction.

*BE it enacted by the general assembly,* That if any person or persons shall willfully and maliciously burn the penitentiary house, or shall be accessory before the fact, he, she or they being thereof duly convicted, shall be deemed guilty of felony, and shall suffer death by hanging; any law to the contrary notwithstanding.

## CHAPTER CCCXCVII.

*An ACT concerning Petit Juries.*

Approved December 27, 1806.

See the prædiction to Chap. 23, of Vol. I.

WHEREAS it is represented to the present general assembly, that the law directing the mode of summoning petit jurors in this commonwealth, is defective and needs amendment:

Sec. 1. *Be it enacted by the general assembly,* That no transient person shall hereafter be compelled to serve as a petit juror; and each party litigant shall have the right of peremptory challenge to one-fourth of the jury summoned, and shall moreover possess the same privilege of challenge, with cause, as is now given by law.

Sec. 2. *Be it further enacted,* That no physician, surgeon, or minister of any religious society, shall be compelled to serve on a petit jury.

This act shall commence and be in force from and after the passage thereof.

## CHAPTER CCCXCVIII.

*An ACT altering the times of holding certain Courts in this Commonwealth.*

Approved December 27, 1806.

This act altered the time of holding the circuit and county courts in the counties of Muhlenberg, Hopkins, Livingston, Christian, and Logan; and changed the times and extended the terms of the circuit courts of Jefferson and Gallatin.

CHAPTER CCCXCIX.

1806.

*An ACT to amend the act establishing Circuit Courts, so far as relates to the Trial of Slaves.*

Approved December 27, 1806.

See Chap. 44, of Vol. I.

SECTION 1. *BE it enacted by the general assembly,* Courts to assign  
That it shall be the duty of the courts of this common- counsel to slaves  
wealth, entrusted and charged with the trial of slaves,  
to assign and appoint counsel learned in the law, to de-  
fend any slave tried before them for a charge of felony,  
in all cases where the master of such slave shall fail or  
refuse to employ counsel for that purpose ; and it shall  
be the duty of the counsel so assigned, to defend such  
slave, as in cases of free persons prosecuted for felony  
by the laws of this state.

Sec. 2. *And be it further enacted,* That it shall be Owner, &c. to  
the duty of the owner of any slave, his agent or guar- employ coun-  
dian, prosecuted according to the provisions of this act, fel.  
to employ an attorney to defend such slave ; and if he,  
she, or they, shall fail so to do, it shall be the duty of On their fail-  
the court to assign counsel to defend such slave ; and all ure, court to  
such attorneys shall receive for their services, from the assign.  
master, owner, or guardian to the owner of such slave, How paid.  
any sum that the court shall deem reasonable, and or-  
der, not exceeding 20 dollars, which shall be recovera-  
ble as other debts of like magnitude.

Sec. 3. *And be it further enacted;* That where any Crimes punish-  
slave shall be accused, apprehended, and brought before able with stripes  
any justice of the peace, for any charge for which stripes deemed milde-  
are imposed as the only punishment, it shall be deem- meanors, and  
ed a misdemeanor only, and the justice may proceed to how proceeded  
enquire into and determine the same without the inter- on.  
vention of a jury. The fee to the officer for whipping Fee to the of-  
a slave by order of the justice, under this act, shall be ficer.  
the same as would have been due him for the like ser-  
vice, if ordered by the court previous to the passage of  
this act.

All acts or parts of acts coming within the purview of Repealing  
this act, shall be, and the same are hereby repealed. clause.

## NOVEMBER SESSION,

1806.

## CHAPTER CCCC.

*An ACT for raising the Wages of the Members of the General Assembly.*

Approved December 27, 1806.

*BE it enacted by the general assembly, That the members of the legislature of this commonwealth, shall hereafter receive two dollars per day, each, and no more, except the usual allowance for travelling and ferriage.*

*This act shall be in force from and after the tenth day of August next.*

*not in  
the hall*

## CHAPTER CCCC.I.

*An ACT making provision for the payment of Attornies for the Commonwealth in the Circuit Courts.*

Approved December 27, 1806.

*BE it enacted by the general assembly, That the act passed December the 27th, 1803, making provision for attornies for the commonwealth, shall be in force for two years from the passage of this act, and the provisions thereof shall be obligatory on the different courts for the term aforesaid.*

*This act shall be in force from the passage thereof.*

## CHAPTER CCCC.II.

*An ACT allowing further time to enter Land for Taxes.*

Approved December 27, 1806.

*Vide Vol. I, Chap. 10, and the Notes.*

*BE it enacted by the general assembly, That any owner or owners of land forfeited to this commonwealth for not being listed for taxation, or any other person on his, her or their behalf, may, within two years from the passage of this act, list the same, in the case of a resident, with the commissioner of the county, and in the case of a non-resident, with the auditor; and upon paying up all arrearages of taxes and interest due upon the said land, the said owner or owners shall become re-vested with the title thereto, in the same manner, and to the same extent as if no forfeiture had happened.*

*This act shall commence and be in force from and after its passage.*

## CHAPTER CCCCIII.

1806.

*An ACT to revive and amend the act entitled "an act concerning Surveyors."*

Approved December 27, 1806.

See the prelection to Chap. 5, of Vol. I.

SECTION 1. *BE it enacted by the general assembly,* That when a surveyor shall hereafter be appointed by virtue of the eighth section of the fourth article of the constitution, the said surveyor shall, prior to entering upon the execution of his office, in the county court ~~for which he shall be appointed,~~ <sup>Surveyors to take oaths.</sup> give assurance of fidelity to the commonwealth of Kentucky, in the mode prescribed by the constitution, shall take the oath of allegiance to the United States prescribed by law, and shall take the following affirmation or oath of office: "I, A. B. surveyor of the county of \_\_\_\_\_, do solemnly swear (or affirm, as the case may be) that I, A. B. surveyor as aforesaid, will well and faithfully execute and discharge the several duties of the office of surveyor for the county of \_\_\_\_\_ by law prescribed, agreeably to the best of my skill and judgment." <sup>The form.</sup>

Sec. 2. *Be it further enacted,* That the said surveyor, having taken the oath or affirmation aforesaid, shall enter into bond with one or more good and sufficient security, in the penal sum of three thousand dollars, payable to the governor for the time being and his successors in office, conditioned for the faithful and due execution of the duties of his said office; and for a breach of the condition of said bond, the person or persons aggrieved may put the said bond in suit, and may assign as many breaches as such person or persons may deem necessary, and shall recover damages on such breaches as may be proved to the satisfaction of a jury; and said bond shall not be void on the first recovery, but may be put in suit from time to time until the whole penalty shall be exhausted. <sup>And to give bond and security. Which may be sued on, and by whom.</sup>

Sec. 3. *Be it further enacted,* That all surveyors within this commonwealth, that have not heretofore given bond and security for the faithful and due execution of their office, shall, on or before the first day of June next, in the county court of their respective counties, give bond with approved security, in manner herein before prescribed; and on failure to comply with this <sup>Surveyors now in office to give bond, &c. Penalty for refusing.</sup>

1806.

act, shall forfeit and pay any sum not exceeding 500 dollars, to be recovered by presentment or indictment, to be applied to the use of the county.

Sections of a  
former act re-  
vived.

Sec. 4. *And be it further enacted*, That the second and third section of the act entitled "an act concerning surveyors," approved June 23d, 1792, shall be, and the same are hereby revived and declared to be in full force and effect; and every act and part of acts coming within the purview of this act, are hereby repealed.

This act to be in force from the passage thereof.

#### CHAPTER CCCCIV.

*An ACT to amend an act entitled "an act for the relief of Settlers of this Commonwealth, in certain cases."*

Approved December 27, 1806.

See the preface to Chap. 220, of Vol. I.

Former act re-  
pealed.

SECTION 1. *BE it enacted by the general assembly*, That so much of the act entitled "an act for the relief of settlers in this commonwealth, in certain cases," approved December 21st, 1802, as authorises the county courts to grant the certificates therein mentioned, shall be, and the same is hereby repealed; and the said certificates shall in future only be granted by the circuit courts of the counties in which the land may lie.

Powers vested  
in the circuit  
courts.

Sec. 2. *And be it further enacted*, That so much of all and every act or acts as authorises the county courts to grant certificates of removal, where the land called for in the original certificate, or survey, or any part thereof, may be lost by military or other better claims, shall be, and the same is hereby repealed; and the said certificates shall in future only be granted by the circuit courts of the counties in which the lands may lie: *Provided, however*, that the said circuit courts shall only grant the certificates contemplated in the first and second sections of this act, to actual and *bona fide* settlers; and that the said circuit courts shall not grant said certificates longer than two years from the commencement of this act, and that no certificate shall be removed upon any land, the Indian title to which may have been extinguished since the year 1794.

Proviso.

Limitation.

Restriction.

This act shall commence and be in force from and after the first day of February next.

CHAPTER CCCC.V.

1806.

*An ACT for the redemption of certain Certificates.*

Approved December 27, 1806.

WHEREAS it is represented to the present general assembly, that George Wilson did, in the months of August, September, October, November, and December, in the year 1788, furnish certain quantities of forage for a troop of horse raised by order of Alexander S. Bullitt, the county lieutenant for Jefferson county, then the state of Virginia; the said troop of horse was raised for the protection of the frontiers of the then district of Kentucky; and it is further represented, that the said forage has not been paid for by the state of Virginia, nor by this commonwealth: for remedy whereof,

Sec. 1. *Be it enacted by the general assembly,* That the auditor of public accounts be, and he is hereby directed to issue a warrant or warrants on the treasury, in favor of said George Wilson, for the sum of three hundred and eleven dollars and fifty cents, for his said forage; and the warrants aforesaid shall be received in discharge of instalments due for vacant lands in this commonwealth.

And whereas by an act of the Virginia assembly, the county lieutenants of Mercer, Lincoln, and Madison, were authorised to send detachments of militia from their respective counties, to guard such families from the Cumberland gap through the wilderness, as might be removing to Kentucky, and authorising the said county lieutenants to give certificates to the officers and men for the amount of their pay, which were receivable in any revenue tax in the then district of Kentucky.

Sec. 2. *Be it therefore enacted,* That the auditor of public accounts be, and he is hereby authorised and directed to receive such certificates, issued as aforesaid to Edmund Turpin, Hugh Gibbs, Ambrose Barlow, Joel Crow, and Joseph Lawrence, for the sum of three pounds eight shillings, each, and issue other certificates in lieu thereof, in the same manner, and for the same purposes as those heretofore issued for the services rendered in the campaigns of general Clarke and colonel Logan, in 1786.

Sec. 3. *And be it further enacted,* That it shall be lawful for the auditor to take in and audit certain certificates assigned to Philip Bush, jun. in the following

1806.

Auditor to re-  
quire proof.

names, to wit: John Field, three pounds thirteen shillings and six pence; William Rice, three pounds seventeen shillings; William Dowdy, three pounds seventeen shillings; George Bowling, three pounds eleven shillings and nine pence; and William Tuly, three pounds seventeen shillings, for their services performed on a tour of duty, under the command of lieutenant Charles P. Tuly: also in the names of Vincent Robins, for three pounds; James Armstrong, seven pounds ten shillings; and John Applegate, three pounds eighteen shillings; who acted as spies by order of the county lieutenant of Jefferson, and to issue certificates for the same for such sum as shall appear to be legally due to them or their assigns: *Provided*, that the said auditor is authorised to require proof, if not otherwise satisfied that such claims have not been heretofore audited or paid.

To commence. This act shall be in force from and after the passage thereof.

## CHAPTER CCCCVI.

*An ACT supplemental to the act providing for the redemption of Land sold for Taxes.*

Approved December 27, 1806.

See the preface to Chap. 10, of Vol. I.

WHEREAS by an act passed the present session of the general assembly, entitled "an act providing for the redemption of lands sold for taxes," much additional labor will be required by the auditor of public accounts, and it is just and right that he should be paid therefor:

*Be it enacted by the general assembly, That for each certificate given by the auditor to the person or persons who may redeem land sold for taxes under the said recited act, he may demand and receive from the persons applying therefor, fifty cents.*

This act shall be in force from its passage.

## CHAPTER CCCCVII.

*An ACT for the appropriation of Money.*

Approved December 27, 1806.

The first section contained merely the ordinary annual appropriation. The second enacted "that a sum not exceeding 4000 dollars, be subject to the discretion of the executive, for the purpose of purchasing nail iron, to be manufactured in the penitentiary house."



## CHAPTER CCCCVIII.

1806.

*An ACT to unite the Newton Academy and Logan Seminary.*

Approved December 27, 1806.

WHEREAS a majority of the trustees of the Newton academy and Logan county seminary have mutually agreed that those institutions and their respective funds shall be united, and that the said union may be confirmed by the legislature: therefore, in compliance with the said request,

Preamble.

Sec. 1. *Be it enacted by the general assembly,* That from and after the first day of February next, the Newton academy and Logan seminary shall be united, and become one institution for the promotion of learning, to be styled and known by the name of the Newton Academy; and that Walter E. Jones, Joseph Hamilton, Armstead Morehead, Urbin Ewing, Samuel Wilson, Thomas V. Swearingen, John Curd, Samuel Caldwell, William Reading, and William Johns, shall be the trustees of the said academy, and hold their first session at Russellville, in the county of Logan, on the fourth Monday in February next.

Trustees appointed.

Sec. 2. *And be it further enacted,* That the said trustees and their successors, by the name of the trustees of Newton academy, shall be a body politic and incorporate, and as such possess, hold, or dispose of, for the use and benefit of the said institution, all the lands, monies and property of every kind which shall be in the occupation of, or in any wise accruing to the said Newton academy and Logan seminary, or either of them, under the several laws by which those trustees shall be respectively entitled thereto on the said first day of February; and that all contracts made by the trustees of either of the before mentioned boards, or their respective agents, prior thereto, shall be fulfilled by, and accrue to the trustees of the said Newton academy.

Incorporated, &amp; their powers &amp; duties.

Sec. 3. *And be it further enacted,* That the several acts of the general assembly now in force, prescribing the powers and directing the proceedings of the trustees of the said Newton academy and Logan seminary, shall be observed by the trustees of the said Newton academy, so far as they are not incompatible with this law.

Certain acts declared in force.

## NOVEMBER SESSION,

1806.

All acts or parts of acts coming within the purview of this act, shall be, and the same are hereby repealed.  
This act shall be in force from its passage.

## CHAPTER CCCCIX.

*An ACT supplementary to an act entitled "an act concerning the Town of Danville."*

Approved December 27, 1806.

SECTION 1. *BE it enacted by the general assembly,* That if it shall happen that the first election of trustees of said town of Danville, shall not be holden on the second Monday in February next, as the said recited act requires, it shall and may be lawful to hold the same in like manner, at the same place, and with the same effect, on the first Monday in April next.

Sec. 2. *Be it further enacted,* That all acts or parts of acts concerning the regulation of the town of Danville, passed previously to the above recited act, shall be, and the same are hereby repealed.

This act shall be in force from its passage.

## CHAPTER CCCCX.

*An ACT for the relief of the Sheriff of Floyd County.*

Approved December 27, 1806.

He had transmitted a list of lands to the public printer, which had, by mistake, been given to the printer of the Kentucky Gazette, and a judgment had been obtained against him for the amount of the taxes. This act suspends the judgment until the 10th day of November.

## CHAPTER CCCCXI.

*An ACT erecting an Election Precinct in the Counties of Clay and Floyd.*

Approved December 27, 1806.

SECTION 1. *BE it enacted by the general assembly,* That all of the county of Clay shall be an election precinct annexed to the county of Madison; the election shall be held at the court-house of Clay, at the same time, and under the same regulations, and in like manner, as elections are by law directed to be held in this commonwealth; the county court of said county shall from time to time appoint judges and clerk to attend

elections in said precinct, in like manner as the law directs in similar cases; and on failure of such court, the sheriff shall fill such vacancies; and the said judges, clerk, and sheriff, shall be entitled to the same allowance, to be paid in like manner, and subject to the same penalties as is directed by law in similar cases. The sheriff attending said election in said county of Clay, shall meet at the court-house of Madison, on Saturday next succeeding the close of the said election, to compare with the sheriff of the county of Madison their respective polls; and after ascertaining by faithful addition and comparison, the person or persons who are duly elected, shall give a certificate thereof to each person elected, and make return thereof in the manner prescribed by law.

1806.

Sec. 2. *And be it further enacted,* That all that part of Floyd county, beginning on the dividing ridge between the waters of Sandy and the Kentucky river, where the state line crosses the same; thence with the dividing ridge westwardly to the head of Lott's creek; thence with the Clay line to the Cumberland mountain; thence with the Cumberland mountain to the beginning, shall be one election precinct; and the county court shall be governed under the same rules and regulations as is prescribed by an act passed the 22d day of December 1799, regulating elections.

This act shall commence and be in force from its passage.

CHAPTER CCCCXII.

*An ACT for the relief of the Sheriff of Jessamine, and the late Sheriff of Ohio Counties.*

Approved December 27, 1806.

They had failed to return their delinquent lists in time. This act relieved them from the consequences of it.

CHAPTER CCCCXIII.

*An ACT to amend the several acts for the better regulation of the Town of Lexington.*

Approved December 27, 1806.

SECTION 1. *BE it enacted by the general assembly,* That the trustees of the town of Lexington shall be, and <sup>Trustees to make laws as to fire buckets.</sup>

1806.

are hereby authorised and empowered to make such regulations and ordinances as they may think proper, to compel such of the inhabitants of said town as are house-keepers, to furnish themselves each with as many fire buckets as said trustees may think proper—the said trustees to direct of what materials and the manner in which such buckets shall be made. The said trustees shall have due regard to the wealth of the inhabitants, and apportion the number of buckets that each individual is to furnish to the quantity of property he or she may be possessed of in said town ; and every person violating such regulations or ordinances, shall forfeit and pay for every such offence, the sum of ten dollars, to be collected in the name of said trustees respectively, recoverable by warrant before a justice of the peace, and applied towards procuring and keeping in repair such engines, buckets, and other materials, as said trustees may deem necessary for extinguishing fires.

To compel attendance in case of fire,

Sec. 2. *Be it further enacted*, That the said trustees shall be further authorised to make such regulations as they may deem necessary and proper to compel all free male inhabitants of said town above the age of sixteen years, to attend in cases of fire, and to labor for the purposes of extinguishing the same ; and said trustees may direct the manner in which they shall labor, and make such other regulations for controlling and governing said inhabitants, whilst engaged in extinguishing fires, as may be necessary ; and any person violating or refusing to comply with such regulations, shall be liable, for every such offence, to forfeit and pay any sum not exceeding ten dollars, to be recovered and applied as aforesaid.

Regulations as to keeping powder.

Sec. 3. *Be it further enacted*, That said trustees are hereby authorised to make such regulations as they may deem necessary and proper, relative to the keeping of gun-powder in the said town of Lexington, and if necessary may prohibit any inhabitants of said town from keeping, in the settled parts thereof, any quantity of gun-powder which might in case of fire be dangerous : and any person violating such rules and regulations, or refusing to comply with the same, shall be liable for every such offence, to pay any sum not exceeding ten dollars, to be recovered and applied as aforesaid.

This act shall be in force from and after the passage thereof.

XV. YEAR OF THE COMMONWEALTH.

413

CHAPTER CCCCXIV.

*An ACT for the benefit of William Bush.*

1806.

Approved December 27, 1806.

He had discovered several banks of iron ore on unappropriated and barren land. This act authorized him to locate 200 acres (so as to include it) within six months, to be surveyed and returned to the register's office, agreeable to the land law of Virginia. The price, 20 dollars per 100 acres. And he had the privilege of locating it in the tract lately acquired from the Indians by treaty.

CHAPTER CCCCXV.

*An ACT for the relief of John Hardwick, Sheriff of Montgomery County.*

Approved December 27, 1806.

He had been charged with four tavern licences, when no such taverns existed, and had paid for them. This act authorized him to draw the money out of the treasury.

CHAPTER CCCCXVI.

*An ACT erecting an Election Precinct in Campbell County, and altering the place of holding the Election in the Precinct in Pendleton County.*

Approved December 27, 1806.

SECTION 1. *BE it enacted by the general assembly,* That all that part of Campbell county from Thomas Posey's ferry, on the Ohio, along the said ferry to Daniel Thacker's tavern, to the place where said road intersects the Grant's lick road; thence down that branch of Rifle creek that heads immediately opposite to the intersection of said roads to its mouth; thence down Licking, to include Cooper's bottom; thence a straight line to the mouth of the Bullock Pen fork of Bank lick, and up the main branch of said fork to Boone county line; thence with the Boone county line to the Pendleton county line; thence with the said Pendleton county line to the Ohio, and down the same to the beginning, shall be one election precinct, and known by the name of Licking precinct: the elections shall be held for the said precinct at the house of Benjamin Allen, on main Licking, by the sheriff of the said county of Campbell, or one of his deputies, at the same time, and in like manner, as elections are by law directed to be held, and the voters of Campbell county shall have the privilege of voting at the court-house, as heretofore, or at the

Boundary.

Thatcher's Rifle

Name.

Election where held.

Duty of the sheriff.

Privilege of voters.

1806.  
Judges & clerks

place for holding an election established by this act, as they shall respectively choose. The county court of said county shall, from time to time, appoint judges and clerk to attend elections in said precinct, in like manner as the law directs in similar cases; and on failure of the court, the sheriff shall fill such vacancies: the said judges, clerk and sheriff shall be entitled to the same allowance for their services, to be paid in like manner, and subject to the same penalties, as is directed by law in similar cases; and the sheriffs attending each of the said elections in the said county of Campbell, shall meet at the court-house of Pendleton county, on Saturday next succeeding the close of the said elections, to compare their respective polls, and after ascertaining by faithful addition and comparison, the person or persons who are duly elected, shall give a certificate thereof to each person elected, and make return thereof in the like manner prescribed by law.

Election in Pen-  
dleton, where  
to be held.

Sec. 2. *And be it further enacted*, That the election in future for the Eagle creek precinct, in the county of Pendleton, shall be held at the house of James Theobalds, in the said precinct.

This act shall commence and be in force from and after the passage thereof.

#### CHAPTER CCCCXVII.

*An ACT making compensation to William Walker, and others, for their services in apprehending Thomas Hopper.*

Approved December 27, 1806.

Hopper had escaped from the penitentiary.

#### CHAPTER CCCCXVIII.

*An ACT supplementary to the acts dividing the Counties of Mason and Lincoln.*

Approved December 27, 1806.

Lincoln county  
court to appoint  
commissioner in  
Casey.

SECTION 1. *BE it enacted by the general assembly*, That the Lincoln county court shall, at their appointment of commissioners of taxable property next after the passage of this act, appoint one in the county of Casey, whose duty it shall be to act in every respect, in the bounds of that county, as if it continued a part of Lin-

coln, except that he shall return his books to the clerk for the county court of Casey, within the time, and under the same laws and regulations, which commissioners for that purpose are required to conform to; and the said clerk shall be likewise bound to act in discharge of his duty relative thereto, as other clerks are on similar occasions. And it shall be the duty of the sheriff of Casey, to collect and account for the revenue in the said county, from the book thus made out and delivered to him, in the same manner, and subject to the same duties, profits and penalties as other sheriffs are in their collections, duty and commission with respect to the revenue.

1806.

Commissioner's  
clerk's & sheriff's duty.

Sec. 2. *Be it further enacted*, That the county court for Mason, shall, at their next appointment of commissioners of the tax, observe the same duty with respect to the county of Lewis, as prescribed for Lincoln as to Casey county; and the commissioners, clerk and sheriff shall also each in their respective stations observe, be governed by, and liable to the same penalties and proceedings against, and entitled to the same benefits, as are required of those officers in the foregoing section, and in general in this commonwealth.

Some regulations as to Mason &amp; Lewis.

Sec. 3. *And be it further enacted*, That the county court for the county of Lewis shall be held on the fourth Monday in every month, except in the months in which the circuit court shall be held; and the circuit court shall be held on the fourth Mondays of March, July and November, and shall sit six judicial days, if the business thereof may require it.

When courts in Lewis are to be held.

Sec. 4. *Be it further enacted*, That the circuit court for the county of Hopkins shall sit six judicial days at each term, if the business shall require it.

Hopkins county to sit six days.

This act shall commence and be in force from and after the passage thereof.

#### CHAPTER CCCCXIX.

*An ACT to amend the several acts concerning Shelbyville, in Shelby County.*

Approved December 27, 1806.

SECTION 1. *BE it enacted by the general assembly*, That there shall be five trustees of Shelbyville, in Shelby

Number of trustees, cccs,

1806.

county, any three or more of whom may constitute a board.

To be elected,  
how, when, and  
by whom.

Sec. 2. The said trustees shall be elected annually on the first Saturday in August; they shall be in office immediately after the election, and continue in office one year, and until their successors shall be elected; the said election shall be holden in the court-house in said town, under the direction of such person or persons as shall be for that purpose appointed by the trustees; or in case such appointment shall not be made, or he or they shall fail or refuse to act, then under the direction of a justice of the peace of said county. All freeholders in said town, and all white male inhabitants aged twenty-one years and upwards may vote in said elections. The five persons, who shall be freeholders in said town, and shall have the highest number of legal votes, shall be the trustees for the ensuing year, and shall be so returned and entered in the book of the trustees; ten days notice of an approaching election shall be advertised on the court-house door by the chairman of the acting board; but an omission thereof shall not postpone or vitiate the election.

Vacancies, how  
filled.

Powers of the  
trustees.

Sec. 3. The board of trustees shall fill vacancies which may take place in their body, they may appoint a clerk, treasurer, surveyor, collector, or other officers, removable at pleasure; may prescribe their duties, and make such allowance for their respective services, as they may deem reasonable.

Duty of the late  
trustees.

Sec. 4. When a new set of trustees shall come into office, it shall be the duty of the late trustees to deliver over to the new ones, every thing which they held by virtue of such trust.

Power of trustees, to make  
by-laws, &c.

Impose fines.

Sec. 5. The trustees shall have power to make and ordain all by-laws for the government of said town, which do not contravene the laws in force in this commonwealth. They may also specify the fines which shall be paid by any person who shall violate any of their by-laws, provided such fine does not exceed the sum of three dollars, or is not otherwise fixed by law.

How to be collected and applied.

Sec. 6. The fines accruing for a violation of any of the by-laws, rules or regulations relative to said town, may by the said trustees be recovered before a justice of the peace of said county, and shall be applied to the use of the town.



# XV. YEAR OF THE COMMONWEALTH.

417

Sec. 7. The said trustees may lay a tax not exceeding two hundred dollars annually, on the titheables and property, both real and personal, within said town.

1806.

Lay a tax.

Sec. 8. The collector shall, under such regulations as the board shall prescribe, collect the taxes, with power to distrain and sell, if so authorised by the board: *Provided, however*, that nothing in this act shall be so construed as to authorise a sale of real estate, or of making distress beyond the limits of the town.

Power & duty of the collectors.

Sec. 9. If taxes shall accrue on lots owned by persons who do not reside in said town, distress for said taxes may be made of the personal property of any person resident thereon, or of such property as may be thereon with the privity and consent of the owner of the property; saving, however, that where lots are used for public purposes, as taverns, shops, and the like, such property as may be thereon, in the way of the trade or occupation used thereon, shall not be subject to distress for the taxes.

Tax on lots on which there is no resident.

Sec. 10. The town collector having given bond with or without security, for the performance of his duties as collector, and shall in any wise have failed therein, and suit shall be commenced thereon, it shall be the duty of the sheriff or officer executing the writ, to endorse thereon the day or days on which the same was executed; and where it shall appear from such endorsement that the writ was executed ten days or more before the return day thereof, the declaration may be filed in court, and judgment rendered at the return term, saving to the defendants, or such of them as shall appear, the right of making defence, which shall be tried at the said term, unless the court, for cause shewn, shall continue the suit. Where no defence shall be entered, an interlocutory judgment may be taken, and writ of inquiry awarded, which may be executed at that or a subsequent term, and judgment entered accordingly: to which proceedings, the acts of *jeofails* shall extend, as in other cases: *Provided, however*, that a proceeding under this act shall discharge the appearance bail against whose principal it shall be had, and provided, also, that nothing herein contained shall prevent the plaintiff from proceeding in the ordinary way, where they shall deem it expedient.

Proceedings against the collector.

*E. Plaintiff*

1806. **Penalty.** Sec. 11. When any collector shall be found in arrear, he shall be subject and liable to pay at the rate of 18 per centum a year on the arrearages, from the time it should have been paid until payment shall be made.
- Not allowed to replevy, &c.** Sec. 12. The privilege of giving a forthcoming bond, or a replevin bond, or of the sale of property on credit, shall not extend to delinquent collectors, or their securities; but in such cases the clerk issuing the execution, shall endorse thereon "no security to be taken."
- Insolvents.** Sec. 13. The list or lists of insolvents may be sent out for collection from time to time, as the trustees shall find convenient, until the money shall be collected.
- Titheables exempted from working on the roads.** Sec. 14. Titheables in said town shall be exempt from working on roads beyond the limits thereof, except to the creek on the eastern side thereof.
- Oaths, by whom to be administered.** Sec. 15. The board of trustees shall, by themselves or clerk, have power to administer all necessary oaths in any inquiry before them.
- Taxes & fines, how to be applied.** Sec. 16. The taxes and fines shall be applied to the use of the said town in such way as the trustees shall deem most expedient.
- Sec. 17. So much of every act or acts as contravenes the provisions of this act, shall be, and the same is hereby repealed.
- Sec. 18. The trustees of said town now in office, shall be regulated by this act, so far as it shall apply.
- This act shall be in force from and after the first day of March next.

## CHAPTER CCCCXX.

### *An ACT concerning the Militia.*

Approved December 26, 1806.

See the observations on Chap. 17, of Vol. I.

#### **Preamble.**

WHEREAS it has been found in all free states that a well trained and organised militia is and ought to be the first and great resort, in times of public danger, arising from the operation of internal or external insurrection or invasion; and whereas it appears to this general assembly, that the present militia laws of this commonwealth are very defective,

#### **Who exempted from military duty.**

Sec. 1. *Be it therefore enacted by the general assembly,* That the following rules and regulations for the government of the militia of this state, be hereafter ob-

served and followed by all persons whatsoever ; hereby repealing and rendering null and void every former law, rule and regulation heretofore enacted or adopted by the authorities of this state. The judges of the superior courts, the treasurer, auditor, attorney-general, secretary of state, register of the land-office, and their clerks, professors and tutors of public seminaries of learning, the public printer, and such as may be necessarily employed in his office, ministers of religious societies, keepers of public jails, the guards employed in the jail and penitentiary house, or persons necessarily employed in iron or lead works, shall be exempt from militia duty.

1806.

## ENROLMENT.

Sec. 2. The enroled militia shall be laid off in divisions, brigades, regiments, battalions, and companies. The divisions, brigades and regiments shall be laid off by the governor for the time being, and be subject to such change as he may deem expedient. The freemen of this commonwealth (negroes, mulattoes and indians excepted) shall be armed and disciplined for its defence. Those who conscientiously scruple to bear arms, shall not be compelled to do so, but shall pay an equivalent for personal service. The commanding officers of the respective regiments shall appoint the regimental staff; brigadier generals their brigade majors; major generals their aids; and captains the non-commissioned officers of companies. A majority of the field officers and captains in each regiment, shall nominate the commissioned officers in each company, who shall be commissioned by the governor: *Provided*, that no nomination shall be made, unless two at least of the field officers are present; and when two or more persons have an equal and the highest number of votes, the field officer present who may be highest in commission, shall decide the nomination.

The governor shall provide for raising companies of grenadiers, light infantry, cavalry, riflemen and artillery, agreeable to the laws of the United States, at his discretion, and when raised and officered shall be subject to the laws and rules of the said United States, and of this state, as other militia.

All and every corps of militia shall be raised, officered and organised agreeable to the laws of the United States, and the constitution of this state.

1806.

## DUTY OF MAJOR GENERAL.

It shall be the duty of each major general, upon good cause shewn, to order a division court martial for the trial of general, staff and field officers; and when the trial is complete, he shall approve or disapprove of the proceedings thereof. He shall receive copies of returns from the majors of brigade of their annual reports made to the adjutant general, and shall receive from the adjutant general copies of requisition of men, made by government upon his division; he shall, upon any notice of invasion or insurrection, embody as many militia as he may think adequate to the emergence, notifying in the speediest manner to the governor, whose directions and orders he shall obey. Whenever the major general may choose, he may attend at any muster or review whatsoever, and give any orders for the disciplining of the troops that he may deem expedient.

## OF THE BRIGADIER GENERAL.

It shall be the duty of the brigadier general to appoint the time of regimental and battalion musters, for the year in which they are to fall; a written notice of which shall be delivered to the commanding officers of regiments on or before the first day of March in every year; he shall give orders to summon brigade courts martial, and appoint the time and place for their sitting. He shall receive the proceedings of the said court, and approve or disapprove of any sentence thereof; it is his especial duty to receive and sign the annual returns made by his brigade major; to visit each regiment in his brigade at least once in two years, on their regimental muster days, and review them; and whenever he may be present at any muster in his brigade, to order and direct the training and exercise thereof, if the occasion in his opinion should require it.

## COMMANDANTS OF REGIMENTS.

The commandants of regiments shall receive the written orders of his general of brigade, for the times of holding regimental and battalion musters for the whole year, and shall give a notice in writing thereof to the commandants of battalions, on or before the fifteenth day of March in the year in which they are to fall. It shall be his duty to attend the regimental and battalion musters and reviews; to exercise his regiment himself on all review days; to superintend and correct the ex-

exercise of the battalion musters, and the company musters, when he may choose to do so: it shall be his duty at least once in a year to receive the returns from the commandants of battalions, and after examining and comparing them with the returns of the preceding year, and noting any casualties that may have occurred, he shall sign them in his official capacity and return them to the major of brigade. Upon his receiving notice of invasion or insurrection, it shall be his duty to immediately embody such force as he shall deem competent for the emergence, and give the earliest notice thereof to the general of division or brigade. At his discretion he may convene the field officers and captains of his regiment, to nominate proper persons to fill vacancies therein, and he may receive the resignation of any subordinate officers in his regiment; and shall appoint regimental courts martial for the trial of offences within their cognizance; of which the said commandant of the regiment shall approve or disapprove.

1806.

## COMMANDANTS OF BATTALIONS.

It shall be the duty of commandants of battalions to receive the written orders of the commandants of regiments, for the days on which the regimental and battalion musters shall be appointed for the year, and give a written notice thereof to the commandants of companies within their respective battalions, on or before the last day of March in every year; they shall exercise their battalions on their days of muster and exercise; and when they may be present at a company muster, they may superintend their exercise, if they think proper. They shall receive, examine, and sign, officially, the returns from the commanding officers of companies, which they shall comprise into a return of their battalion, and noting any difference that may have occurred, return them to the adjutant of the regiment, in conformity to their orders. They shall strictly examine the arms, ammunition and accoutrements of the corps or companies composing their battalions, at their several musters, and shall see that their enrolments and classifications are correct and agreeable to law.

## CAPTAINS AND COMMANDANTS OF COMPANIES.

The commanding officer of battalions shall give to those commanding companies a written notice of the days on which the regimental and battalion musters

1806. shall fall during that year; to which the said commandants of companies shall add the days appointed for the muster of his company or troop for the same year; and he shall deliver within five days afterwards, to wit, by the fifth day of April, in every year, a certificate of the several musters so ordered, to the sergeants, whose duty it shall be to deliver to, or leave at the place of abode of each corporal, musician and private, in the company or troop to which he belongs, a like written notice, on or before the fifteenth day of April, in each year. Each commandant of a company shall lay off his men into ten classes for an equal routine of duty, and when called upon, he shall begin with the first—he shall be observant in enrolling all the men within his bounds, comprising all who may from time to time settle or inhabit therein for the space of three months. It shall be the duty of the commandant to exercise his company at each of the musters thereof, agreeably to the rules prescribed by congress; to inspect their arms, &c. and to make an annual return thereof, agreeably to the form he may receive, which shall be officially signed by himself. In every case the commandants of companies shall receive and execute the orders of his superior officers, and conform himself to such military regulation as the service may require.

#### LIEUTENANTS AND ENSIGNS.

Lieutenants, ensigns, and other subordinate officers of companies, shall be obedient to, and execute the official orders of their commandant; they are in particular to assist in the exercise and organization of their companies, and report every defalcation or disobedience in the government and exercise thereof.

#### GENERAL, BRIGADE, AND REGIMENTAL STAFF.

The adjutant general is to be appointed with the rank of colonel, as other field officers; his office shall be kept at the seat of the state government.

Aid-de-camps are to be commissioned by the governor; their duty is to carry and execute the orders of the major general to whom they are attached.

The brigade inspectors shall be commissioned by the governor.

An adjutant and quartermaster shall be commissioned by the governor; it shall be their duty to obey the orders of the commandants of regiments.

## XV. YEAR OF THE COMMONWEALTH.

425

1806.

The regimental surgeon, his mate, the paymaster, the serjeants, drum and fife majors are to conform to and implicitly obey the orders they receive from the commandants of regiments.

Judge advocates and provost martial shall be appointed to the several courts martial hereafter ordered by the said court. It shall be the duty of the judge advocate to take and keep safely a true statement of all proceedings, whether pleas, evidence or defence made before a court martial, a fair copy of which he shall make out and deliver to the governor, or officer ordering such court, within twenty days after their adjournment; and to prosecute for the state. The provost shall attend and execute the orders of the court.

### GENERAL REGULATIONS.

Courts martial shall be appointed for the trial of all offences arising from neglect of duty, disobedience of orders, or disorderly and ungentlemanly behavior. The governor shall order general courts martial, when he may think it necessary, where a major general shall preside, and be composed of eight additional members, two of whom shall be brigadiers, and the other six field officers. The proceedings of this court shall be approved by the governor, from whose decision there can be no appeal.

Division courts martial may be appointed at the discretion of the major general, where a brigadier shall preside, who, with six field officers, shall compose the court, whose proceedings shall be approved or disapproved, and whose sentence shall be affirmed or reversed by the major general who ordered such court; subject, however, upon an appeal to the governor for his final affirmance or reversal.

Brigade courts martial may be appointed at the discretion of the brigadier general, where a colonel shall preside, who, with six additional officers, to wit, two field officers and four captains, at least, shall compose such court, whose proceedings shall be approved or disapproved by the brigadier general ordering it; subject, however, upon an appeal to the major general, to his final affirmance or reversal.

Regimental courts martial shall be appointed by the commandants of regiments, where a field officer shall preside, who, with six other regimental commissioned

1806.

officers, two of whom, at least, shall be captains, shall compose a court for the trial of all officers below the grade of a field officer, and the regimental staff, whose proceedings shall be approved or disapproved by the commanding officer of the regiment; subject, however, to an appeal to the commandant of the brigade, for a final decision.

In the general court martial, none shall be tried below the grade of a general officer, or the general staff. In a division court martial, none shall be tried below the grade of a field officer; and in a brigade court martial the field officers and brigade staff may be tried, or a captain, for good cause shewn. Upon the convening of either of the courts herein directed, the president thereof shall administer to the judge advocate the following oath or affirmation: "I ——— do solemnly swear (or affirm, as the case may be) that I will truly and faithfully execute the office of judge advocate to this court, so long as I remain in office, to the best of my abilities and the laws of this state; and that I will not disclose or discover the opinions of any court martial wherein I serve, unless to the commanding officer, until he has approved or disapproved thereof; nor will I at any time disclose or discover the opinion of any particular member of the court martial I act with, unless required to give evidence in a court of justice." Which oath shall be deemed a competent qualification to such judge advocate, while he continues to act. And the judge advocate shall proceed to qualify the members, by administering to them the following oath: "You, and each of you, do swear (or affirm) that you will well and truly try and determine, according to evidence, agreeably to justice, the best of your understanding, and the laws of this state, between the commonwealth of Kentucky and the prisoner to be tried; and you will not disclose the opinions of this court martial, where secrecy may be required, until made public by the proper officer; nor will you at any time disclose the vote or opinion of any particular member thereof, unless called upon by a court of justice to give evidence."

Whereupon the court shall proceed to the business laid before them, and adjourn from day to day until it is finished; of all which a complete record shall be made, and signed by the president, and the court shall be dissolved.



1806.

Upon the disclosure of the opinions or sentence of any court martial, any person may, according to the directions of this act, appeal therefrom, by filing a written notice with the officer to whom the appeal is made, within thirty days after the sentence is published, whose duty it shall be to order up before him the proceedings of such court, for a final decision.

Any officer who shall have cause of complaint against his superior officer, shall file with the governor, major general, brigadier general, or commandant of regiment, the charges, certified in form, upon which an enquiry or arrest, at discretion of such superior officer, may be awarded : *Provided*, that from the commencement of an arrest, a court martial shall be ordered to meet within thirty days of the time and place, of which the officer arrested shall have at least twenty days notice. And provided also, that if upon the meeting of such court it shall appear that from the absence of witnesses, inability or sickness of the parties, or for any good cause shewn, a fair and impartial trial could not then be had, they may adjourn the court to a future day, not exceeding six months.

A court for the assessment of fines, and receiving the returns of delinquents, shall be held on the last Monday in November in every year ; a field officer of the regiment for which they are held shall preside, who, with four captains, four subalterns, the regimental judge advocate, and an orderly serjeant, may proceed to business ; but every commissioned officer in the regiment shall be considered a member of the court *ex officio*. This court are to examine all returns laid before them, to have the delinquents called to shew cause why judgment should not be awarded against them, and to deliver the opinion of the court in every case to the judge advocate, who is hereby directed to make a fair record thereof. This court also shall have the power of excusing from militia duty aged and disabled persons during their disability, and to hear evidence to determine the same.

This court shall have power to adjourn from day to day, to compel the attendance of absent members, and when their business is completed, the president shall sign the records of their proceedings, and the court for that year shall be dissolved : *Provided*, that previous to

1806.

their proceeding to do any business whatsoever, the members and judge advocate composing the said court, take the following oath or affirmation, to wit: "We, and each of us, do swear (or affirm) that we will truly and diligently enquire of, and decide upon the several delinquencies reported to us, and in every case, decide according to law and the best of our skill and understanding, without favor, or the hope of reward."

It shall be the duty of any officer resigning or removing, to deliver the list of public arms and laws that may be in his possession, to the commandant of his regiment, at the time of his resignation or removal, who shall deliver the same to the successor of such officer.

#### OF THE MUSTERS, EXERCISE AND RETURNS.

There shall be in the months of October in every year, a regimental muster at such place as the commandant belonging thereto may direct, where every field, staff, and regimental commissioned and non-commissioned officer, every private and musician shall attend.

There shall be a battalion muster in every battalion, at such place as the commandants may direct, in the month of May in each year, where every officer, non-commissioned officer, musician and private shall attend. There shall be at least four company musters in each year, which shall be appointed at the discretion, as to time and place, of the commandants of companies, between the last day of May and the last day of September, where the commissioned, non-commissioned officers, the music and privates of each company shall attend, armed and equipped according to law.

At the several musters herein directed to be held, the troops shall be exercised at least three hours on each day, and no person present shall be exempt therefrom, except for sickness or some unforeseen cause: the rolls shall be called at each muster or review, and the delinquents particularly noted by the commandants of companies, both as to absence, arms, accoutrements, and as to a refusal and failure to perform the duty required when present.

Once in every year, on such days as the commanding officers of regiments shall appoint, the whole of the commissioned officers, non-commissioned officers, staff and music, belonging to a regiment, shall meet at the place for holding the musters and reviews thereof, equipped

## XV. YEAR OF THE COMMONWEALTH.

427

and armed in such manner as the commandant may direct, to be drilled and exercised by him, or under his direction; which exercise and drilling shall continue two days in succession: at this muster, the roll shall be called by the commandant, and the delinquents noted and returned, as in other musters.

1806.

At all musters, and reviews, and attendance on courts martial, no persons are to give impediment or disturbance. Every officer and private thereof shall be free from arrest (except for breaches of the peace or felony) whilst going to, attending at, or returning from any review, muster, or court martial; and any person or persons other than those performing military duty, who shall wilfully impede or disturb any corps or court in their exercise or other duty, shall be apprehended and brought before a magistrate, who, upon due proof of such charge, shall adjudge against such person a sum not less than two nor more than ten dollars, and award execution either against his body or goods therefor, and may be put under guard by the commanding officer for three hours, or less; and all sums so recovered shall be paid to the regimental paymaster.

Returns shall be made by the officers commanding companies or troops, to those commanding battalions, once in every year at least, in which shall be expressed the military strength of such company, and the number and kind of every sort of arms or equipment thereto and therein, whose duty it shall be to countersign them, digested into battalion returns, and deliver them to the officer commanding the regiment, who shall cause a like regimental return to be made out and signed by himself, delivered to the brigadier general; the brigadier general shall cause the brigade inspector to digest the whole regimental into one general brigade return, which shall be signed by the brigadier or officer commanding the brigade, and transmitted to the adjutant general, whose duty it shall be to have all such returns recorded in a book to be kept for that purpose. The general of brigade shall, without delay, have a fair copy of such return made out by the brigade inspector, and sent to the major general or officer commanding the division.

The brigade inspectors, adjutants of regiments, and commanding officers of companies, shall keep books, in which all returns shall be duly recorded, and the casual occurrences noted.

1806.

On or before the fifteenth day of November in each year, the adjutants of regiments shall receive from the commanding officers of companies and corps, the returns of delinquents for that year, who shall record and deliver them to the regimental judge advocate, at least five days before the sitting of the court for the assessment of fines, in order that he may lay them before that body for their adjudication.

After the sitting of every court of assessment, the judge advocate shall make out two fair copies of all their proceedings, one of which he shall deliver to the regimental paymaster, and the other to the brigadier general, both of whom shall cause the same to be recorded. The regimental paymaster shall, on or before the first day of February in each year, deliver to the high sheriffs of each county, who shall, under the penalty of fifty dollars, to be recovered on motion by the paymaster in any court having competent jurisdiction, receive and receipt for all lists and copies of judgments against all delinquents and defaulters, as adjudged by the said court of assessment, and take his receipt therefor; who shall thereupon apply for and receive the same, and levy and make distress therefor as in other cases, if payment is withheld; for which the said sheriff shall receive the same per centum and fees for distress as are by law allowed for collection of the public revenue. On or before the first day of September in every year the said sheriff shall settle with and pay over to the regimental paymaster, all sums by him collected as aforesaid, and return upon oath an account of all insolvents and delinquents, reserving his commission as aforesaid, taking the said paymaster's receipt therefor, an attested copy of which he shall, within thirty days thereafter, transmit to the general of brigade, and also have recorded in the court for the county in which he is sheriff; but in case the said sheriff shall fail or refuse to pay and settle with the paymaster as aforesaid, the said paymaster may immediately proceed to recover the monies due from the said sheriff and his securities, in the same manner that monies are recovered by the counties against their public collector of levy.

Any person aggrieved by any decision of the court of assessment, may make affidavit thereof, and lodge the same with the judge advocate before the first day of

February in each year, who thereupon shall present the same at the succeeding annual court, where such grievance shall be reheard and decided upon ; and if the former judgment shall be affirmed, such applicant shall be charged with and pay fifty per cent. thereon, all of which the judge advocate shall record.

1806.

The regimental paymaster shall, before he acts as such, enter into bond with sufficient security in the county court, to the governor and his successors in office, in the sum of five hundred dollars, conditioned for the just fulfilment of all the duties herein required of him ; which bond shall not be void on the first recovery : and he shall also take the following oath : " I, ———, do swear, I will, as paymaster to ——— regiment of militia, truly and honestly perform the said duty, and render a just account to the best of my knowledge, when called upon by the proper tribunal."

And it shall be the duty of the field officers in every regiment, to call upon and settle with the paymaster annually, and they shall record a return of such settlement in the court of their county, signed by themselves at the next court after the close of such settlements ; and the clerk shall perform such service *ex officio*, and shall also sign a duplicate thereof, which shall be transmitted to the brigadier general commanding the brigade, who shall cause the same to be entered of record by the brigade inspector : the monies collected and funded with the regimental paymaster, shall be subject to orders drawn by the commandant of the regiment, for regimental purposes, and to the orders of major or brigadier general, for any purpose affecting the immediate interest of the regiment or corps from whose paymaster the same is drawn, all which orders shall be regularly filed and preserved by the paymaster, as vouchers in his annual settlement for all and every duty herein specified. The said paymaster shall receive and be entitled to ten per centum on all sums actually received and paid away.

It shall be the duty of the adjutant general to call for any returns adjudged necessary by the governor, and to furnish to each brigade forms thereof ; and in like manner every commandant of division, brigade or corps are to be implicitly obeyed, when they may think it necessary to call for returns of their respective commands.

1806.

Every division, brigade and regiment shall be kept fully officered; and rosters in each shall by the proper officer be prepared, by which the detail of duty shall be regulated.

## TOUR OF DUTY.

The governor for the time being shall, when he deems it necessary, call forth into the service of this state such a number of militia as he shall judge expedient: a tour of duty shall be estimated at thirty days, and when employed in the service of the state, no militia shall be compelled to serve more than two tours without discharge; if called into the service of the United States, each militia man or corps shall receive a credit for a tour of duty for every thirty days he may be so employed, provided in every case, the duty shall actually have been rendered.

The militia, when in the service of this state, shall be governed by the articles of war, and receive the same pay and rations as the army of the United States.

In all cases where a troop of horse, light infantry, artillery or rifle company shall be arranged, the men enlisting therein shall not be discharged from their duty in the regiment or company from which they were taken, until such troop or company shall have been mustered and returned.

Whenever a new regiment shall be ordered by the governor, the field officers and captains composing it shall meet and lay off the district into bounds for the companies; but at no time shall a company consist of less than thirty-two privates, and if at any time a company shall be reduced to a less number, it shall be incorporated with the adjoining companies whilst such disability exists.

All and every officer shall, after receiving his commission, and before he acts under it, take the following oath: "I ——— do swear (or affirm) that, I will support the constitution of the United States, and that I will be faithful and true to the commonwealth of Kentucky so long as I continue a citizen thereof, and that I will faithfully execute the office of ——— according to law, and the best of my understanding." Which oath may be taken before any magistrate, or in the court of any county, and a certificate thereof shall be endorsed upon his commission, at the time of his taking the oath.

which officer, thus qualified, shall be respected and implicitly obeyed as such, who shall continue to hold his office at least three years from the date of his commission or commissions, unless he removes from the district in which his command operates. All courts martial and of assessment shall issue summons for witnesses, who shall attend; the process may be served by the provost martial, or any sheriff or constable, and if such witness shall not attend without a reasonable excuse, he shall be fined; the president or any field officer may issue such subpoena previous to the sitting of the court; and it is hereby directed that the several courts possess competent powers to carry into execution the regulations granted, or analogous to their institution.

1806.  


In all courts martial, any person to be tried may make objections to any member or members composing the said court, not exceeding three, peremptorily, and assign his reasons for objections to others: if they are such as to evince their propriety, another or other members shall be summoned, otherwise the court shall be deemed competent, except the peremptory challenge.

At all parades, reviews, and field days, as well as in all actual service, the general, staff, and field officers shall appear in uniform and side arms, viz: a general or general staff officer, with a coat of blue, lappels of buff, gold epauletts, and buff under clothes, boots, spurs, a cocked hat, cockade, and small sword or hanger.

The field officers and field staff shall observe the same uniform, except their coats shall be turned up and lappelled with red, and silver epauletts. The captains, subalterns, and regimental staff, shall uniform themselves, as the reputation of the service will materially be affected by a conformity to a regulation so essential in a military view; provided that for good cause shewn, the courts shall not fine the subalterns for not appearing in uniform; their trimmings to be the same with the field officers, except no epauletts shall be necessary, except the officers of the dragoon, rifle, and infantry, and artillery corps, who may wear and adopt their own uniform: all officers shall reside in the bounds, division, brigade, regiment, battalion, or company, to which they may severally belong.

Parents, guardians, masters, or mistresses, shall be accountable for the fines of their children, wards or servants, who are under 21 years of age.

1805.

As sanction is necessary to enforce every provision in any law, and as the phraseology of this act may convey an idea that the performance of the duties enjoined and directed to be performed by it, is discretionary; it is hereby declared to every officer, non-commissioned officer, musician and private, that the duties herein directed, are to be specifically and positively performed, and that all and every delinquent, upon a failure therein, shall and may be charged with disobedience of orders, neglect of duty, or disorderly and ungentlemanly behavior. That courts martial shall be, at the discretion of those directed, or whose duty it is to make the enquiry, ordered to sit on such charges; whose duty it shall be to cashier, dismiss from service, reprimand or acquit those accused, and also to assess any fine herein imposed, either in addition to, or abstracted from any other punishment.

## PAY AND FINES.

The pay and reward to the commissioned and staff officers for duties arising under this act, shall be as follows:

To the adjutant general for his service, to be paid by warrants on the treasury, one hundred dollars per annum.

To the brigade inspector for his service, to be certified by the brigadier general and paid by warrants on the treasury, two dollars per day.

To any division judge advocate, to be paid by the paymaster of the regiments composing the division, by warrant or order of major general, two dollars per day.

To the brigade judge advocate, to be paid by the paymaster of the regiments composing the brigade, by order of the brigadier general, two dollars per day.

To the regimental judge advocate, to be paid by the regimental paymaster by order of commandant, two dollars per day.

To the provost martial or orderly sergeant attending any of the above courts, to be paid in the same manner as the judge advocates are, one dollar per day.

The adjutants of regiments, to be paid by the regimental paymaster by orders drawn by the commandants of regiments, two dollars per day.

The regimental paymaster shall pay to the orders of the commanding officers of regiments, the necessary



## XV. YEAR OF THE COMMONWEALTH.

434

sums for a standard, battalion colors, a clarinet for each regiment, a drum and fife, or bugle horn, to each troop or company.

1806.

To each drum and fife major, and the musician on the clarinet, to be paid by the paymaster of the regiment, by order of the commandant, two dollars per day.

To all expresses necessarily dispatched in military service, to be paid by warrants on the treasury, by certificate from a major general, brigadier, or commandant of regiment, one dollar per day.

The fines inflicted under this act shall be, on every major general who does not perform the duties or duty required, shall pay a fine of fifty dollars.

Every brigadier general, for neglect of his duty, shall pay for not appointing the musters in the manner herein directed, fifty dollars.

For failing to make annual returns, twenty dollars.

For failing to review his brigade, for each regiment, ten dollars.

Every commandant of a regiment for neglect of duty in not appointing the mustering place of his regiment, ten dollars.

For not giving the notice of musters, thirty dollars.

For not attending a regimental muster, ten dollars.

For not nominating officers to fill vacancies, five dollars.

For not attending courts martial, five dollars.

For not attending drill musters, per day, five dollars.

For failing to perform a tour of duty when called on, one hundred dollars.

Every commandant of battalion, for neglect of duty, shall pay, for not giving notice of musters, twenty dollars.

For not attending and exercising their battalions on their days of muster, ten dollars.

For not making an annual return, ten dollars.

For not attending courts martial or assessments, four dollars.

For not attending drill musters, per day, three dollars.

For failing to perform a tour of duty when called on, seventy-five dollars.

Every commandant of a company or troop, shall pay, for failing to enrol the militia within his bounds, ten dollars.

## NOVEMBER SESSION,

1806.

For not giving due notice of the musters, five dollars.

For not classing his company for duty, ten dollars.

For not attending and exercising his company at their several musters, for each failure, five dollars.

For not making his annual returns, ten dollars.

For not making a return of delinquents, ten dollars.

For not attending courts martial and assessments, three dollars.

For not attending drill musters, three dollars.

For failing to perform a tour of duty when ordered, fifty dollars.

Every lieutenant and ensign, or cornet, shall pay, for failing to perform a tour of duty, forty dollars.

For failing to attend the several musters, each, three dollars.

For failing to attend the drill musters, each day, three dollars.

For failing to attend the courts martial and assessment, three dollars.

The adjutant general shall pay, for every neglect of duty enjoined by law, the sum of twenty dollars.

Aid-de-camps shall be fined for any neglect of their duty, for each offence, twenty dollars.

The major of brigade, or brigade inspectors, shall pay, for every neglect of duty enjoined by law, twenty dollars.

The regimental adjutant, quartermaster, surgeon, mate, and paymaster, shall forfeit and pay, for every neglect of duty assigned by law, five dollars.

Each serjeant, drum and fife major, shall pay, for not attending each muster, two dollars.

Each serjeant shall pay, for not attending each muster, the sum of one dollar fifty cents.

For not giving notice of musters and courts martial, four dollars.

Every private who fails to appear at any muster, shall for each offence pay one dollar.

Every commissioned and staff officer who shall appear on parade at any muster not with uniform and arms prescribed by law, shall pay agreeably to his rank not more than ten dollars nor less than one, to be assessed by a court of assessment or a court martial; and any officer as aforesaid who attends at any parade and refuses to do the duty required of him, shall pay a fine of five dollars.

## XV. YEAR OF THE COMMONWEALTH.

435

Any non-commissioned officer, musician or private who attends any parade and refuses to do the duty required of him, shall pay double the sum for non-attendance.

1806.

Every non-commissioned officer or private who attends the parade at any muster, and does not bring arms and accoutrements, shall be fined by the courts of assessment twenty-five cents, unless it shall appear that any such private is so poor as not to be able to purchase arms and accoutrements.

If any captain of a troop of horse shall appear upon parade without being in complete uniform, properly equipt with his sword, pistols and cartridge box, with at least one dozen cartridges, he shall be fined three dollars.

The first lieutenant belonging to any troop of horse appearing upon parade without being completely equipt as aforesaid, shall be fined two dollars.

The second lieutenant belonging to any troop of horse appearing upon parade without being completely equipt as aforesaid, shall be fined one dollar and fifty cents.

The cornet belonging to any troop of horse appearing upon parade without being completely equipt as aforesaid, shall be fined one dollar.

And any private appearing upon parade without being in complete uniform and equipt as aforesaid, shall be fined in any sum not less than fifty nor more than seventy-five cents, at the discretion of the court of assessment.

And all fines arising on any troop of horse, company of riflemen, artillery, or infantry, shall be severally applied to the use of said company. And which fines and amercements shall be collected, funded and applied as herein directed.

All such volunteer horse, light infantry or rifle companies which now exist, or hereafter may be permitted to be raised in this state, after being enroled in such companies, agreeable to the provisions of this act, or any former act of the state, shall not be at liberty to leave such company, unless by the permission of the commandant of such company, or removal from the bounds, or a dissolution of such company.

And to the end that none shall be uninformed of the military laws operating in this state, the public printer

1807. is hereby directed to publish so many copies thereof as will be necessary, allowing to every general, field and staff officer one copy, and to each company one copy: this publication shall contain, 1st, the laws of congress; 2d, of this state; 3d, the articles of war of the United States; which shall be bound up together, and printed under the inspection of the secretary of state. It shall be the positive duty of the commandants of companies to cause to be read the aforesaid laws, &c. at least once a year, at some muster, to his company, and to give the necessary notice thereof.

This act to be in force from the passage thereof.

## December Session, 1807.

### CHAPTER CCCCXXI.

*An ACT to suspend the Sale of Lands for the Debt due the State.*

Approved January 1, 1808.

See the preface to Chap. 220, of Vol. I.

Sales suspended until June.

Auditor to furnish the register with lists.

Owners may pay as heretofore.

Duty of the register and treasurer.

SECTION 1. *BE it enacted by the general assembly,* That the sales of land directed to be made by the register of the land office, under the act of the last session, entitled "an act providing for the payment of the debt due this commonwealth for the sale of vacant lands;" commencing on the third Monday in December, one thousand eight hundred and seven, shall be, and the same are hereby suspended until the first Monday in June next; and during the suspension the auditor shall proceed with all practicable dispatch to complete and deliver over to the register a transcript of the list directed by the recited act; and individuals indebted for vacant lands purchased from the commonwealth, may proceed to make payment according to law, in the following manner: the register shall certify to the treasurer the amount proposed to be paid (such amount having been authorised to be paid by law heretofore passed) which being paid into the treasury the treasurer shall

## XVI. YEAR OF THE COMMONWEALTH.

437

give a receipt therefor, which receipt shall be presented to the auditor, filed and preserved by him; and the auditor's quietus being obtained, the register shall give the proper credit rendered necessary by it.

1807.

Sec. 2. *Be it further enacted*, That on the said first Monday in June next, the register shall proceed to make the said sales, as if this suspension had not been directed.

This act shall be in force from its passage.

---

### CHAPTER CCCCXXII.

*An ACT to amend the act entitled "an act for the Inspection of Hemp and Flour," approved December 14th, 1796.*

Approved January 1, 1808.

*Vide Vol. I, Chap. 58.*

*BE it enacted by the general assembly*, That an inspection of tobacco shall be, and is hereby established in the county of Woodford, on the north side of the Kentucky river, on the lands of Thomas Turpin, at or near Delany's ferry, where there is now an inspection of hemp and flour, to be called and known by the name of Wilkins's inspection, and to be governed by the same rules and regulations as other inspections of tobacco are in this state.

This act shall be in force from and after the passage thereof.

---

### CHAPTER CCCCXXIII.

*An ACT authorising the Assistant Judges and Justices of Lewis County to fix the permanent Seat of Justice therein.*

Approved January 21, 1808.

---

### CHAPTER CCCCXXIV.

*An ACT authorising the Editors of the Lamp to insert certain Advertisements in their Paper.*

Approved January 21, 1808.

They were permitted to insert all advertisements required by law to be printed, and not expressly required to be inserted in the paper of the public printer.

1807.

## CHAPTER CCCCXXV.

*An ACT to ratify and confirm the proceedings of the Montgomery Academy, and for the appointment of additional Trustees, and fixing the permanent Seat of the said Academy.*

Approved January 21, 1808.

WHEREAS it has been represented to the present general assembly, that Joseph How did act as a member of the board of trustees to the Montgomery academy, and that the said How was not named in the act entitled "an act to establish and endow certain academies," nor was the said How ever recognised by the trustees of the said academy as a trustee thereof, and that only a majority, counting the said How as a member, has sat at any one time in transacting the duties which the said trustees were authorised to do by the said act; and that doubts exist that the title of the donation, made by the general assembly, of lands to the said academy, will on that account be affected; and it is further represented, that by the removal of sundry trustees, there are but five qualified trustees belonging to the said academy: therefore,

Sec. 1. *Be it enacted by the general assembly,* That the proceedings of the said trustees are hereby ratified and made valid, so far as they have acted consistently with the above recited act, notwithstanding the said Joseph How acted as a trustee.

Sec. 2. *Be it further enacted,* That the seat of the said academy shall be permanently fixed on some spot which can be obtained by the trustees within the bounds of the town of Mountsterling.

Sec. 3. *And be it further enacted,* That Joseph How, Moses Bledsoe, James French, John Young and James Crawford be appointed as trustees, in addition to the present number, vesting them with the same powers as are given the other trustees by the above recited act.

This act shall commence and be in force from and after the passage thereof.

## CHAPTER CCCCXXVI.

*An ACT altering the time of holding certain Courts.*

Approved January 25, 1808.

By this act the time of holding courts in Fleming, Woodford, Shelby, Franklin, Henry, Gallatin, Bullitt, Jefferson, Scott, Livingston, Christian, Logan, Warren, Adair, Cumberland, Barren, and Green, were altered, and the terms in Washington and Hardin extended.

XVI. YEAR OF THE COMMONWEALTH.

439

CHAPTER CCCCXXVII.

1807.

*An ACT altering certain Terms of the Fayette Circuit.*

Approved January 25, 1808.

CHAPTER CCCCXXVIII.

*An ACT concerning the Marriage of Johannah Gunsaulis.*

Approved January 25, 1808.

This act authorized her to sue, in Mason county, her husband, Henry Gunsaulis, for a divorce; and to obtain it on a jury's finding that he had deserted her for several years, and was either married, or living in open adultery with another woman.

CHAPTER CCCCXXIX.

*An ACT to establish an Inspection of Tobacco, Hemp and Flour, in South Frankfort, on the Kentucky River.*

Approved January 25, 1808.

*Vide Vol. I, Chap. 58, and the Notes.*

SECTION 1. *BE it enacted by the general assembly,* That an inspection of tobacco, hemp and flour, be, and hereby is established on the Kentucky river, in South Frankfort, upon the lands occupied by John Smart, to be called and known by the name of Smart's; and that the said inspection be governed in all respects as a tobacco inspection, by the act entitled "an act to amend and reduce the several acts of assembly for the inspection of tobacco, into one act;" and as an inspection of hemp or flour, by the general laws on those subjects, respectively.

Sec. 2. *And be it further enacted,* That this act shall be and remain in force from and after the passage thereof.

CHAPTER CCCCXXX.

*An ACT for the relief of the Sheriff of Floyd County.*

Approved January 25, 1808.

This act allowed him six months to transmit his delinquent list.

CHAPTER CCCCXXXI.

*An ACT giving concurrent jurisdiction to the County and Circuit Courts in certain cases.*

Approved January 27, 1808.

*BE it enacted by the general assembly,* That in all cases where any part of a river, water, water course,

1807.

highway, road or street, shall be the boundary line between two counties, the circuit and county courts, judges, justices, and all circuit and county officers, shall have concurrent jurisdiction in all cases over the whole extent of such parts of said river, water, water course, highway, road or street, which shall be the boundary of such circuit or county, to all intents and purposes, as if such parts of said river, water course, highway, road or street was within the body of such circuit or county: *Provided, however*, that no person or persons shall be twice punished for the same offence committed on any such parts of a river, water, water course, highway, road or street as aforesaid.

So much of any act or acts as comes within the purview of this act, shall be, and the same is hereby repealed.

This act shall commence and be in force from and after the passage thereof.

CHAPTER CCCXXXII.

*An ACT to amend an act entitled "an act to establish and endow certain Academics."*

Approved January 27, 1808.

Seminaries established.

SECTION 1. *BE it enacted by the general assembly*, That a seminary of learning shall be, and is hereby established within each county within this commonwealth, except those counties in which seminaries are now established by law.

Powers of the county courts.

Sec. 2. *Be it further enacted*, That the several county courts for the respective counties in which seminaries have not been established as aforesaid, shall be and are hereby authorised to have located, surveyed and patented within the boundaries heretofore prescribed by law, or within the county where such seminary may be established by this act, six hundred acres of waste and unappropriated land, for the use of the seminary of their said county.

County courts to appoint trustees.

Sec. 3. The county courts aforesaid shall appoint seven trustees for the seminaries of their counties, who shall fill the vacancies which may happen by death, resignation, or otherwise; and the said trustees shall be and are hereby severally invested with all the powers and privileges that are enjoyed by the trustees of any



academy or college within this state, and by a concurrence of a majority of their members, fix on the name and the permanent seat of their seminary, within their respective counties.

1807.

Sec. 4. *And be it further enacted*, That where any county court have proceeded to enter or survey in part or the whole quantity of six thousand acres of waste land, agreeably to the rules and regulations heretofore prescribed for the government of the trustees of seminaries, such entries or surveys shall be deemed as good and as effectual in law, as if such county courts had been specially named by any particular act of assembly: *Provided, however*, that no location shall be made under the provisions of this act, on any land ceded to the United States by the treaty of Tellico, or on any entry or survey upon military warrants.

Entry & survey made by county court, to be legal.

Provido.

Sec. 5. *And be it further enacted*, That the justices of the county courts of the several counties shall have power to sell and convey any part of the lands granted to them by this or any former law, not exceeding one half thereof, to enable them to clear out their donation lands; and so soon as the said county court shall have perfected their titles to the said lands, they shall deliver over to the trustees all the title papers which may be in their hands; and the said trustees shall lease the balance not sold, for the use and benefit of their respective institutions: *Provided*, the said justices shall be allowed the further time of two years from the passage of this act, to cause their entries and surveys to be made and registered, and no longer; but shall not be restricted to any number of surveys.

Further powers of county courts

Provido.

Sec. 6. *Be it further enacted*, That the proceedings of the trustees of the Newton seminary shall be as valid as if they had met on the day required by law.

Proceedings of the Newton academy made valid.

This act shall commence and be in force from and after the passage.

#### CHAPTER CCCCXXXIII.

*An ACT for erecting a new County out of the Counties of Madison and Clarke.*

Approved January 27, 1808.

SECTION 1. *BE it enacted by the general assembly*, That from and after the first day of April next, all those

VOL. III.

3 G

1807.

Boundary.

parts of the counties of Madison and Clarke, included within the following bounds, shall be erected into one separate and distinct county, to wit: beginning at the mouth of Drowning creek; thence up the same to the Red lick; from thence to the line of Clay county, at the head of the Horse lick creek; thence with the same line to the Kentucky river; thence up the same to the Clarke and Montgomery county line; thence with the same to Red river; thence down Red river to the Kentucky, and up the same to the beginning; and shall be called and known by the name of Estill.

County courts  
when held.

Sec. 2. A court for the said county of Estill shall, on the third Monday in every month, except those months that circuit courts are hereafter directed to be held in said county, be held by the justices of said county, under the same rules and regulations that other county courts are now held within this commonwealth.

Justices, their  
duty.

Sec. 3. The justices named in the commission of the peace for said county, shall meet at the Sweet Lick, in the county aforesaid, on the first day of April after the county shall take place, and having taken the necessary oaths, and a sheriff being qualified to act, shall immediately proceed to appoint and qualify a clerk, and fix upon a place to hold courts in said county, and shall have power to erect their public buildings on the ground so chosen for that purpose; and until such building shall be erected, they may appoint any other place for holding court: *Provided*, that no appointment of clerk (except *pro tempore*) nor place for erecting the public buildings shall take place, unless a majority of all the justices for said county shall be present and concur therein.

Provide.

Circuit courts  
to be held,  
when & where.

Sec. 4. A circuit court for said county shall be held at the place for holding courts in said county, on the third Monday in March, June and September in every year; and at the first meeting of said circuit court, the judges thereof shall have full power to appoint their clerk, and make such other rules and regulations for the well ordering said court as they may deem requisite and necessary.

Powers of the  
sheriffs of Ma-  
dison & Clarke.

Sec. 5. It shall be lawful for the sheriffs of the counties of Madison and Clarke to collect and make distress for any public dues and officers' fees which shall remain unpaid at the time said county takes place, within

the bounds formerly belonging to their several counties, and shall be accountable for the same in the same manner as if this law had not taken place.

1807.

Sec. 6. The courts of Madison and Clarke shall have jurisdiction in all actions in law or equity that shall be depending before them at the time of division, and shall try and determine the same, issue process and award executions thereon.

Jurisdiction of  
Madison and  
Clarke.

Sec. 7. *Be it further enacted*, That the ferry on the Kentucky river, in said county of Estill, shall be kept free, and immediate passage shall be given public messengers and expresses, whenever required; and the said ferry shall be kept free for all citizens of said county, living on the opposite side of said river from the said seat of justice, on all court, election, regimental and battalion muster days, without tolls.

Regulations re-  
specting ferries.

This act shall commence and be in force from and after the passage thereof.

#### CHAPTER CCCCXXXIV.

*An ACT to establish the Town of Hartford, in the County of Ohio.*

Approved February 3, 1808.

WHEREAS the inhabitants and owners of lots in the town of Hartford, in the county of Ohio, labor under considerable inconveniencies, owing to said town not being established by law, and it being the wish of the greater part of the citizens thereof, that the same should be established by a special act of the general assembly: wherefore,

Sec. 1. *Be it enacted by the general assembly*, That the four hundred acres of land heretofore designated and laid off for a town, in the county of Ohio, on Rough creek, on the land of the late Gabriel Madison, inclusive of the out and in-lots, shall be, and the same is hereby established, agreeably to the original plan of said town, and shall forever hereafter be known and distinguished by the name of Hartford.

Town establish-  
ed.

Its site.

Name.

Sec. 2. *Be it further enacted*, That Thomas Moseley, Joshua Crow, James Love, Daniel Barry, Aquilla Field, Joshua Griffith, and Robert Moseley, shall be, and they are hereby appointed trustees, and they, or a majority of them, and their successors to be appointed

Trustees.

1807. in the manner herein after directed, shall be, and are hereby constituted a body politic and corporate, to be known and distinguished by the appellation of the trustees of the town of Hartford; they, or a majority of them, shall have power and authority to make all such laws and regulations as may be necessary for the government of said town: *Provided always*, that such laws and regulations are not incompatible with the constitution and laws of this state, nor the laws and constitution of the United States. They shall settle and determine the metes and bounds of the said town, and of the several lots, streets and alleys thereof; and for that purpose may order a re-survey of the said town agreeably to the original plan thereof, and shall cause the same to be returned into the office of the county court, to be recorded and filed in said office.
- May cause a re-survey to be made. Sec. 3. *Be it further enacted*, That the said trustees are hereby authorised to cause the streets and alleys of said town to be cleaned and repaired by the inhabitants thereof, and if they, or any of them, shall refuse to clean and repair such parts of said streets and alleys assigned to them by order of said trustees, it shall be lawful for them, or a majority of them, to hire the cleansing and repairing thereof, and shall levy the price thereof on the person or persons so failing and refusing, and in case payment is not immediately made, the said trustees may obtain a warrant from any justice of the peace of said county, who shall give judgment for debt and costs, agreeable to law, and award execution therefor, as in other cases.
- Penalty for failing to work on streets, &c. Sec. 4. *Be it further enacted*, That the aforesaid trustees shall continue to act until the first day of August in the year 1809, and shall have power to fill such vacancies as may be produced by death, resignation, or otherwise, during said period; and it shall be the duty of all the free white male citizens resident within the limits of said town, above the age of twenty-one years, and the owners or occupiers of land therein, being of full age, to meet at the court-house in said town, at the August or September term of the county court of said county, in every two years thereafter, and then and there elect seven fit persons to act as trustees of said town, to continue in office for and during the term of two years; and during that period, the said trustees, or a majority
- Their style and duty.
- How recoverable.
- Trustees, time of their continuing in office.
- May fill vacancies.
- Who may vote for trustees.
- The number of trustees.

of them, shall fill all such vacancies that may happen by death, resignation, or otherwise: *Provided always*, that no person shall be appointed as a trustee of said town, unless he shall be resident in, or the owner or occupier of land within the limits of said town. And it shall be the duty of the clerk of the county court aforesaid, to take the votes of persons entitled to vote for trustees at the times aforesaid. Each voter shall have a right to vote for seven persons as trustees, and the seven persons having the greatest number of legal votes, shall be considered as duly elected; and the clerk of said court shall record the names of the persons so elected, who shall continue in office for the term aforesaid. And the clerk shall be allowed a compensation for his services, to be allowed by the court, and paid by the trustees of said town, who may collect the same from the inhabitants and owners of lands in said town.

1807.

Proviso respect-  
ing qualification  
of trustees.

Election of the  
trustees, how,  
and by whom  
elected.

Compensation  
to clerk.

How paid.

And whereas it is unjust to support any government, corporation or body politic, by a poll tax: therefore,

Sec. 5. *Be it further enacted*, That whenever it shall be necessary to levy a tax for defraying the expenses of the said town, it shall be the duty of the said trustees, in levying the same, to apportion it equally amongst the inhabitants, the owners and occupiers of lots and land within the limits of said town, in proportion to their real and personal property within the same. And if any person or persons, so liable to be taxed by the trustees as aforesaid, shall fail and refuse to pay the same upon demand, the said trustees may coerce the same by application to a justice of the peace within said county, whose duty it shall be to issue his warrant, to give judgment and award execution as in other cases of debts under five pounds: *Provided always*, that any such magistrate may enquire into the propriety and legality of compelling the person or persons so warranted to pay the said demand, or any part thereof, and to render judgment accordingly.

Town taxes as-  
sessed on pro-  
perty.

How collected.

This act to be in force from the passage thereof.

To commence.

## DECEMBER SESSION,

1807.

## CHAPTER CCCCXXXV.

*An ACT for the relief of the Executrix and Executor of Josiah Wilson, deceased.*

Approved February 3, 1808.

They had *bona fide* sold a lot in Springfield, the property of their testator, they and the purchaser thinking they were authorized so to do, when in fact they were not. This act confirmed the sale.

## CHAPTER CCCCXXXVI.

*An ACT concerning the marriage of Henrietta Ewing.*

Approved February 3, 1808.

This act authorized her to sue Charles Ewing for a divorce, in the Nelson court, and to obtain it on a jury's finding that he had separated from her, and intermarried with Mary Flint, and continued to live in adultery with said Mary.

## CHAPTER CCCCXXXVII.

*An ACT vesting certain powers in the County Court of Fayette.*

Approved February 3, 1808.

WHEREAS the time allowed the commissioners appointed to collect evidence of the records of Fayette county court, which were burnt, has expired, and experience having shewn that the said powers can with more convenience and less expense be vested in the county court of Fayette : therefore,

*Be it enacted by the general assembly,* That all the powers which by the laws passed twenty-seventh of December 1803, and eleventh December 1804, which were vested in the said commissioners, shall and may be exercised by the said county court ; and that their acts and proceedings in pursuance thereof shall be as valid and effectual, to all intents and purposes, as if done by the said commissioners. And that the clerk of the said county court shall receive for his services the same fees which by the said recited acts are allowed to the clerk of said commissioners.

This act is in force from its passage.

## CHAPTER CCCCXXXVIII.

*An ACT concerning the marriage of Richard M. Thomas.*

Approved February 3, 1808.

This act authorized him to sue Elizabeth Thomas for a divorce, in Woodford county, and to obtain it on a jury's finding that she was distracted—that he had provided for her future support, and that she had been delivered of two coloured children.

XVI. YEAR OF THE COMMONWEALTH.

447

CHAPTER CCCCXXXIX.

1807.

*An ACT legalising the proceedings of the County Court of Nelson, at their December Term 1807.*

Approved February 3, 1808.

The proceeding legalised, was, laying the levy in an improper month.

CHAPTER CCCCXL.

*An ACT to fix the permanent Seat of Justice for Warren County.*

Approved February 3, 1808.

WHEREAS it is represented to the present general assembly, from the petitions of a large proportion of the citizens of Warren county, that the seat of justice of said county is improperly fixed: wherefore,

Sec. 1. *Be it enacted by the general assembly, That* Commissioners, Samuel Wilson, John Rhodes, Samuel Haycraft, Reuben Ewing, and Richard Garnett, be, and they are hereby appointed commissioners, who, or a majority of them, shall meet at the house of Simon M. Hubbard in the town of Bowling-Green, in said county, on the day of holding court in said county, in the month of May next; and in case of accident or other circumstances, the said commissioners should not meet on the day aforesaid, they shall meet at that place as soon thereafter as practicable, and shall from thence explore so much of the said county as shall enable them to judge of the proper place of fixing the permanent seat of justice of said county, and for that purpose shall have power to call on the surveyor for such official services as they shall deem necessary; and it shall be his duty to afford the same, so far as shall be within his power (for which the said commissioners shall allow and certify a reasonable compensation, which shall be payable out of the county levy); and the said commissioners shall fix on the place for the permanent seat of justice of said county, having a due regard to the geographical centre of the county, and to other advantageous circumstances attendant on the place they may fix on: *Provided, however,* that the said commissioners, before they proceed to act, shall make oath before some justice of the peace of said county, faithfully and impartially to do the duties enjoined on them by this act, according to the best of

When to meet.

Their duty.

By what rules to be governed.

To take oath.

1807.

their knowledge ; a certificate of which oath they shall cause to be annexed to their proceedings.

To receive donations, &c.

Sec. 2. *And be it further enacted,* That the commissioners who may fix on the permanent seat of justice of said county, shall be, and they are hereby authorised to receive proposals from the proprietor or proprietors of the land on which they may fix the seat of justice, for any donation of land, money or property, such proprietor or proprietors may choose to give, in consideration of having the seat fixed on their land, and shall take a

Their duty on receiving such donations.

bond or conveyance, as the case may require, payable to the justices of the county court of said county, for such donation ; and moreover, the said commissioners shall

To open subscriptions.

open subscriptions for donations from individuals who may be willing to contribute towards the public buildings of said county. And the said commissioners shall

To report their proceedings to county court,

make out a complete transcript of their proceedings, which they shall lodge with the clerk of the county court, together with any bond, conveyance or subscriptions they may have taken, and the clerk shall lay the same before the next county court ; and the justices thereof shall be vested with full power to collect and receive any such donations or subscriptions as may be made, and shall dispose of the same in the most advantageous way towards the completion of the public buildings.

Duty of the justices thereon.

County court to cause the public buildings to be erected.

Sec. 3. *And be it further enacted,* That the said county court of the county aforesaid, at their next term after the commissioners' report shall be made out, or as soon thereafter as practicable, shall proceed to the erection of the public buildings at the place fixed on by said commissioners ; and to enable them to go on and complete their buildings, the said county court shall make sale of the lands given by individuals, (except so much as may be necessary to preserve for the public) and apply the proceeds of the sales and the amount of subscriptions to the erection of their said public buildings ; and the residue of the sum necessarily required for that purpose, they shall levy on their county.

From what funds.

Compensation to commissioners.

Sec. 4. *And be it further enacted,* That the said commissioners shall each receive the sum of two dollars for every day they may be necessarily engaged in doing the business confided to them by this act, and six cents for every mile they may travel in going to and from the place aforesaid ; and the said commissioners shall an-



nex to their proceedings, and report a statement of the expense attending the business, which shall be levied on the county by the county court at the laying their next levy, and which shall be paid to the said commissioners by the sheriff as other monies; and the sheriff shall be liable to be proceeded against, in case of failing to pay the same, as he may in any case of failing to pay county levy agreeably to law.

1807.

Sheriff liable to motion thereon.

Sec. 5. *Be it further enacted*, That the courts of said county shall continue to be held at the present seat of justice, until the buildings at the place which shall have been fixed on by the commissioners as aforesaid, shall be in sufficient readiness for the court; whereupon the county court shall adjourn to the new place, and shall certify the same to the circuit court, who shall thereafter hold their sessions at the place thus certified by the county court.

Place at which courts shall be held.

Sec. 6. *And be it further enacted*, That nothing in this act shall be so construed as to authorise the said courts to fix the permanent seat of justice on the land of any person without the consent of the owner thereof, nor unless the proprietor or proprietors shall consent to convey two acres on which to erect the public buildings; and also consent that a town shall be there laid out; and also consent that one fourth part of the sales for lots, when laid off and sold in the new town, at the place so fixed on by the commissioners, in case of a removal, shall be appropriated towards the indemnification of those who may have purchased and improved in the old town of Bowling-Green—each to receive in proportion to the amount to which the said commissioners shall estimate the loss sustained by each lotholder aforesaid, by the depreciation in the value of the property, and occasioned by the removal aforesaid: *Provided, however*, that no person shall be benefitted by this section, except those who have actually purchased under the faith of the former law authorising the laying off the town of Bowling-Green, nor shall the proprietors of the land where the present town of Bowling-Green exists, receive any part thereof. And for the purpose of indemnifying for the depreciation aforesaid, and in aid of the one fourth of the sales aforesaid, the said commissioners shall be, and they are hereby authorised to open a subscription and apply such money or other property as shall be so

Owners of land to concede to certain terms.

Further terms.

Owners of property in Bowling Green to be indemnified.

Who may receive the indemnity.

Indemnity how perfected.

1807.

subscribed, towards compensating for the depreciation aforesaid: *Provided, however*, that if the one fourth part of the sales aforesaid, together with the solvent and valid subscriptions in aid thereof, shall be found to be more than sufficient to compensate for the depreciation aforesaid, then the residue of the said one fourth part of the sales aforesaid, shall thenceforth be exonerated from farther lien in this particular.

Sec. 7. *And be it further enacted*, That the surveyor, clerk, and the justices of the county court, shall each be liable to a penalty of fifty pounds, in case of failing or refusing to perform the duties enjoined on them by this act, to be recovered by action of debt, in any court of competent jurisdiction, one half to the use of the informer and the other half to the use of the county aforesaid, to be applied towards lessening the levy thereof.

This act shall commence and be in force from and after the passage thereof.

---

#### CHAPTER CCCCXLI.

*An ACT for the relief of the Sheriff of Henderson County.*

Approved February 3, 1808.

His delinquent list had not been certified at November, but was at December term. This act directed the auditor to receive it.

---

#### CHAPTER CCCCXLII.

*An ACT for the benefit of the heirs of Thomas Johnston, deceased.*

Approved February 3, 1808.

Thomas Johnston, the ancestor, had furnished a beef and a gun for the Wabash expedition, and had lost the certificate. This act directed the auditor to issue a warrant therefor, in behalf of his heirs, for 10 pounds, with interest from September 1st, 1806, till paid.

---

#### CHAPTER CCCCXLIII.

*An ACT establishing sundry Inspections of Tobacco, Hemp and Flour in this Commonwealth.*

Approved February 3, 1808.

*Vide* Vol. I, Chap. 58, and the Notes.

SECTION 1. *BE it enacted by the general assembly*, That an inspection of tobacco, hemp and flour be, and it

hereby established in Madison county, on the lands of William M'Bean, about one quarter of a mile below the mouth of Tate's creek, to be called and known by the name of Tate's creek inspection; and an inspection of tobacco, hemp and flour be, and is hereby established in Madison county, at the mouth of Muddy creek, on the lands of Richard Haydon, on the Kentucky river, to be called and known by the name of Haydon's inspection, which shall be subject to the same rules and regulations as other inspections of the like kind are by law.

1807.

Tate's creek.

Haydon's.

Sec. 2. *Be it further enacted*, That an inspection of tobacco, hemp and flour be, and the same is hereby established in Boone county, on the lands of Zerah Tousey, in a small village on the Ohio river, opposite to the town of Lawrenceburg in the Indiana territory, to be called and known by the name of Tousey's inspection, and that the same be governed by the same rules and regulations as govern other inspections in this state.

Tousey's.

Sec. 3. *Be it further enacted*, That an inspection of tobacco, hemp and flour be, and the same is hereby established in Fleming county, on the lands of Robert Andrews and Michael Hedrick, at their mills on Main Licking, to be called and known by the name of Andrews's and Hedrick's inspection; an inspection of tobacco, hemp and flour, is hereby also established on Green river, at the mouth of Russell's creek, to be called and known by the name of the Green river inspection; an inspection of tobacco, hemp and flour, is hereby established on the Rolling fork of Salt river at the lower end of Cedar Lick, on the lands of Joshua Barnes, in Washington county, to be called and known by the name of Barnes's inspection; an inspection of tobacco, hemp and flour, is hereby established on the lands of John Williams, on Red river, in Logan county, to be called and known by the name of Williams's inspection; and an inspection of tobacco is hereby established on the lands of Jezareel Ellis, in Pendleton county, to be called and known by the name of Ellis's inspection.

Andrews's and Hedrick's.

Green river.

Barnes's.

Williams's.

Ellis's.

Sec. 4. *And be it further enacted*, That an inspection of tobacco, hemp and flour, be established on the lands of Jonathan Taylor, at the Island ford of Pond river, in Hopkins county, to be called and known by the name of the Pond river inspection.

Pond river.

Sec. 5. *Be it further enacted*, That an inspection of tobacco, hemp and flour, be, and the same is hereby es-

## DECEMBER SESSION,

1807.  
 }  
 Mill creek.

tablished, on the lands of Christian Hahn, at the mouth of Mill creek, on the Beach fork, in Nelson county, called and known by the name of the Mill creek inspection.

Stephenson's.

Sec. 6. *Be it further enacted*, That an inspection of flour, hemp and tobacco, on the land of John Stephen-son, at the mouth of Sycamore, on the Ohio, in Lewis county, to be called and known by the name of Stephen-son's inspection.

This act shall commence and be in force from and after the passage thereof.

## CHAPTER CCCXLIV.

*An ACT providing a mode for this State receiving her Dividend at the State Bank.*

Approved February 11, 1808.

SECTION 1. *BE it enacted by the general assembly*, That the half yearly dividends at the Bank of Kentucky, of which mention is made in the act of assembly by which the said bank is established, shall be declared on the first day of January and the first day of July in every year, until a different day or days shall be fixed on by the board of directors of the said bank.

Sec. 2. *And be it further enacted*, That it shall be the duty of the president of the said bank, within three days after each dividend as shall be declared as afore-said, to certify to the auditor of public accounts the amount thereof due the state, and the auditor shall forthwith enter the same in his office and certify it to the treasurer, whose duty it shall be to attend at the bank and receive the dividend thus due, and pass his receipt for the same, which receipt shall be delivered over to the auditor, who shall for the same pass his quietus to the bank.

This act shall be in force from and after the passage.

## CHAPTER CCCXLV.

*An ACT fixing the Ratio, and apportioning the Representation for the ensuing four years.*

Approved February 11, 1808.

Ratio,

SECTION 1. *BE it enacted by the general assembly*, That the ratio for the next four years shall be, and the

1807.

same is hereby fixed at seven hundred qualified voters for each representative, and that the representation for that period shall be, and the same is hereby apportioned throughout the state, for the house of representatives, in the following manner, to wit:

From the county of Adair, one representative; from the county of Barren, two; from the counties of Boone and Gallatin, one; from the county of Bracken, one; from the county of Breckenridge, one; from the county of Bullitt, one; from the county of Bourbon three; from the counties of Campbell and Pendleton, one; from the county of Cumberland, one; from the county of Clark, two; from the county of Casey, one; from the county of Christian, two; from the counties of Clay and Floyd, one; from the county of Fleming, two; from the county of Franklin, one; from the county of Fayette, three; from the county of Garrard, two; from the county of Green, one; from the counties of Greenup and Lewis, one; from the counties of Henderson and Hopkins, one; from the county of Henry, one; from the county of Hardin, two; from the county of Harrison, one; from the county of Jefferson, two; from the county of Jessamine, one; from the county of Knox, one; from the county of Logan, two; from the county of Livingston, one; from the county of Lincoln, two; from the county of Madison, three; from the county of Montgomery, two; from the county of Mason, two; from the county of Mercer, two; from the county of Muhlenburg, one; from the county of Nelson, three; from the county of Nicholas, one; from the county of Ohio, one; from the county of Pulaski, one; from the county of Shelby, three; from the county of Scott, two; from the county of Woodford, two; from the county of Wayne, one; from the county of Washington, two; from the county of Warren, two; amounting to seventy representatives for the whole commonwealth.

Sec. 2. *Be it further enacted*, That for the purpose of apportioning the representation in the senate, the state shall be, and is hereby laid off into twenty-eight senatorial districts, as follows, to wit: the counties of Livingston, Henderson and Hopkins, shall compose the first; the counties of Christian and Muhlenburg, the second; the county of Logan, the third; the county of

1807.

Warren, the fourth ; the county of Barren, the fifth ; the counties of Green and Adair, the sixth ; the counties of Wayne and Cumberland, the seventh ; the counties of Lincoln and Casey, the eighth ; the county of Mercer, the ninth ; the county of Garrard, the tenth ; the county of Washington, the eleventh ; the county of Nelson, the twelfth ; the counties Breckenridge, Hardin and Ohio, the thirteenth ; the counties of Jefferson and Bullitt, the fourteenth ; the county of Shelby, the fifteenth ; the counties of Franklin and Henry, the sixteenth ; the counties of Woodford and Jessamine, the seventeenth ; the counties of Harrison and Bracken, the eighteenth ; the counties of Mason, Lewis and Greenup, the nineteenth ; the counties of Fleming and Nicholas, the twentieth ; the counties of Montgomery and Floyd, the twenty-first ; the county of Clark, the twenty-second ; the county of Bourbon, the twenty-third ; the county of Fayette, the twenty-fourth ; the counties of Boone, Pendleton, Gallatin and Campbell, the twenty-fifth ; the county of Scott, the twenty-sixth ; the counties of Madison and Clay, the twenty-seventh ; and the counties of Pulaski and Knox, the twenty-eighth ; and that the qualified electors within each senatorial district aforesaid, shall elect one senator, in the manner directed by law, to represent them in the senate of this state.

Sheriffs to com-  
pare polls.

Where to meet.

When.

Report the re-  
sult.

Regulation re-  
specting new  
counties.

Sec. 3. *Be it further enacted*, That in order to ascertain the polls, where two or more counties compose a senatorial district, or for the purpose of choosing a representative, the sheriffs of such counties shall meet at the court-house of the county first named to compose such district, or for the purpose of choosing a representative, on the first Monday after the said election shall have commenced, inclusive of the first day of said election, and having ascertained by faithful comparison and addition the amount of their respective polls, shall make return of the persons elected in the manner prescribed by law.

Sec. 4. *Be it further enacted*, That if any new county shall be established before the next enumeration and apportionment of representation, it shall be considered as a part or parts of the county or counties from which it was taken for the purpose of representation.

## CHAPTER CCCCXLVI.

1807.

*An ACT to incorporate the Directors of the Paris Library Company.*

Approved February 11, 1808.

SECTION 1. *BE it enacted by the general assembly,* That William Garrard, jun. Robert Trimble, William Kelly, Samuel Hanson and Benjamin Mills, and their successors, duly elected or appointed in manner herein after directed, be, and they are hereby made, declared and constituted a corporation and body politic in law and in fact, to have continuance forever, by the name, style, and title of the Directors of the Paris Library Company.

Directors appointed and incorporated.

Style of the corporation.

Sec. 2. *Be it further enacted,* That all and singular the sums of money, books, goods and chattels, which may have been subscribed and paid, or which may be subscribed and remain due, or which may hereafter be subscribed, given, granted or devised to the said company, or to any person or persons for the use thereof, shall be vested in and confirmed to said corporation; and that the said corporation may take and receive any sum or sums of money, or any goods, chattels or other effects of what kind or nature soever, which shall or may hereafter be given, granted or bequeathed unto them by any person or persons, bodies politic or corporate, capable of making such gift or bequest; such money, goods, chattels, or other effects, to be laid out and disposed of in the purchase of books, maps, charts, drawings, &c. for the use and benefit of said company, agreeably to the intention of the donors.

What vested therein.

May receive donations, &c.

How disposed of.

Sec. 3. *And be it further enacted,* That the said corporation, by the name and style aforesaid, shall be hereafter forever capable in law to sue and be sued, plead and be impleaded, in any court or courts, or other places, or before any judge or justice within this commonwealth, or elsewhere, in all manner of suits, actions or complaints, of whatsoever kind or nature they may be, in as full and effectual a manner as any other person or persons, bodies politic or corporate, may or can do.

Legal capacity, powers and privileges.

Sec. 4. *And be it further enacted,* That the said corporation shall have full power to make and use a common seal, with such device and inscription as they shall think proper, and the same to break, alter and re-

To appoint treasurer, secretary and librarian.

1807. new at pleasure ; to appoint a treasurer, secretary and librarian ; to assign them their duties, fix their compensation, and remove him or them from office and appoint another or others in their place as often as they shall think fit ; to make and execute such by-laws and ordinances as may be deemed useful to the institution, and the same to alter, amend or abrogate at pleasure ; to fix the price of new shares, and annual contributions on each share ; to direct how transfers may be made and certified, and judge of the persons proper to be admitted members ; to procure by purchase, rent or otherwise a suitable place for keeping the library ; to appoint the times for keeping the library open, and for taking out and returning books ; to fill up vacancies that may happen in their number between two half yearly meetings ; to levy and collect fines and forfeitures, and to determine upon and transact all matters appertaining to the said corporation or library company, agreeably to the rules, ordinances and by-laws thereof, during their continuance in office : *Provided, however,* that not less than three of the directors shall be a quorum to do business ; that no by-law shall be made repugnant to the laws of this commonwealth ; and that no contribution shall be laid on any share in any one year greater than one fifth of the value of a share, without the consent of a majority of the members.
- Sec. 5. And be it further enacted,* That there shall be a semi-annual meeting of the members of said library company, at the library, or such suitable place as the directors may from time to time appoint, of which the directors shall cause at least ten days notice to be given, in at least one of the newspapers that circulate in the vicinity of Paris, or other notice affixed on the doors of the public houses or taverns in said town ; at which time and place, the members, or such of them as may be present, either personally or by proxy, evidenced by writing under the hand of the shareholder, and shall not be in arrears for any annual contribution, fines or forfeitures, shall elect and choose by ballot, five directors out of their number, to serve for the half year ensuing their election, and until others shall be elected, and consent to serve in their place : *Provided always,* that a majority of the shareholders as aforesaid, either personally or by proxy, shall be necessary to elect the di-
- To make by-laws, &c.
- To fill vacancies.
- Proviso.
- Place of meeting.
- Notice thereof.
- To elect successors.



rectors, and that each shareholder shall be entitled to one vote for each share he shall possess in the institution.

1807.

Sec. 6. *And be it further enacted*, That the directors shall cause the treasurer, secretary and librarian to keep, in suitable books for that purpose, just and proper entries of all the proceedings and accounts of the company and corporation, and have them laid before the company at every half yearly meeting previous to taking the votes for directors ; and shall always deliver the said books, together with all the property of the company in good order, to their successors in office; whenever required.

To keep a record of their proceedings.

Sec. 7. *And be it further enacted*, That the first election for directors by virtue of this act, shall be held on the first Saturday in July next, and the second election on the first Saturday in January next ensuing; and on the first Saturdays of January and July in every year forever thereafter ; and in case a majority should fail to appear at the times appointed to hold elections of directors, that elections shall be held as soon thereafter as the attendance of a majority of the shareholders can be obtained for that purpose, previous notice thereof being given as aforesaid.

Elections, when to be held.

Sec. 8. *And be it further enacted*, That each shareholder shall be at liberty at all times to transfer or relinquish his share or shares, and that he shall forever thereafter be released from all further contribution on account thereof.

This act shall be in force from its passage.

#### CHAPTER CCCXLVII.

*An ACT prohibiting the reading of certain Reports in this Commonwealth.*

Approved February 12, 1808.

*BE it enacted by the general assembly*, That all reports and books containing adjudged cases in the kingdom of Great Britain, which decisions have taken place since the 4th day of July 1776, shall not be read nor considered as authority in any of the courts of this commonwealth, any usage or custom to the contrary notwithstanding.

This act shall be in force from its passage.

1807.

## CHAPTER CCCCXLVIII.

*An ACT authorising Sheriffs and Constables officially to give certain Notices.*

Approved February 12, 1808.

SECTION 1. *BE it enacted by the general assembly,* That it shall be lawful for any sheriff or constable to serve notices and make return thereof, officially, in cases of application for obtaining and dissolving injunctions, taking depositions, making surveys under an order of court, the service of a declaration in ejectment, and every other notice which is required by law to be given, and such officer shall endorse thereon the time when any notice was given.

Sec. 2. There shall, by the party requiring any notice to be given, be paid to the officer serving the same, and taxed in the suit as other costs, the following fees: for serving a declaration in ejectment the same fee as heretofore allowed by law, and for serving any other notice twenty-five cents: *Provided, however,* that nothing in this act shall be so construed as to prevent any declaration in ejectment or notice from being served or given as heretofore.

This act shall be in force from the passage thereof.

## CHAPTER CCCCXLIX.

*An ACT authorising the sale of certain Lands of the High Dutch Lutheran Congregation, for the benefit of the Franklinian School, in Mercer County.*

Approved February 12, 1808.

## CHAPTER CCCCL.

*An ACT giving certain powers to the County Court of Nelson.*

Approved February 12, 1808.

The jailor had erected a kitchen for the use of the jail. This act authorised the county court to pay him for it.

## CHAPTER CCCCLI.

*An ACT for the relief of the Sheriff of Hardin County.*

Approved February 15, 1808.

The delinquent list had been certified at January, instead of November court. This act directed the auditor to receive it.

## CHAPTER CCCCLII.

1807.

An ACT to amend an act entitled "an act concerning Public Roads."

Approved February 16, 1808.

*Vide Vol. I, Chap. 296.*

SECTION 1. *BE it enacted by the general assembly,* That whenever a clerk delivers to a sheriff a copy of an order of court, appointing any surveyor of a public road or precinct, as now directed by law, the sheriff shall endorse thereon the time he receives it, and shall either deliver a copy thereof to such surveyor, or leave it at his usual place of residence within the time heretofore required by law, and return the copy given to him with an endorsement also thereon of the time he executed it as aforesaid, to the next circuit court for the county, on the first day of the term: the endorsements thereon as aforesaid, shall be received as evidence of the respective periods of its delivery to the sheriff, and his giving or leaving a copy to the surveyor.

Duty of sheriffs upon receipt of order appointing a surveyor of a road.

How executed.

Copy to be returned with an endorsement.

Which shall be evidence.

Sec. 2. The clerk may require of the sheriff a receipt for any such order delivered to him, which, or other satisfactory evidence, may be adduced by the clerk, to shew that he had complied with his duty in giving any copy as aforesaid, agreeably to law.

Sheriff to give a receipt to the clerk for such copy.

Sec. 3. If a sheriff shall not return every such copy executed as aforesaid, at the time aforesaid, or the truth of the case, and the clerk shall prove the delivery thereof by producing the receipt of the sheriff or his deputy, the sheriff shall be fined as is now directed by law, for not executing such orders within the time required; and if the clerk shall fail in such proof, he shall be fined, and not the sheriff, for not complying with his duty.

Further duties of the sheriff.

Further duties of the clerk.

Sec. 4. *Be it further enacted,* That every surveyor of a public road or precinct, failing to perform his duty agreeably to law, shall be fined any sum not exceeding ten dollars, nor less than two dollars and fifty cents, as the court may judge from the circumstances of the case, instead of the fine heretofore inflicted.

Penalty on surveyor.

Sec. 5. *And be further enacted,* That where any water course shall be the division line between counties or precincts, the surveyors of public roads shall be bound to work to the middle of said water course, removing all obstructions, and keeping the fords, where public roads cross said water courses, in good passable order.

Duty of surveyors where a water course divides their precincts.

1807.

## CHAPTER CCCCLIII.

*An ACT amendatory to the Laws respecting the conveyance and division of Lands.*

Approved February 16, 1808.

*Vide Vol. I, Chap. 50, and the preface.*

WHEREAS it has frequently happened that after a decree in chancery against the defendant or defendants has been rendered, ordering a conveyance of the legal title to the plaintiff, it has become extremely difficult to have the said decree carried into full effect, under the present laws of this state: for remedy whereof,

Courts of chancery may appoint commissioners to convey lands under decrees thereof.

Sec. 1. *Be it enacted by the general assembly, That* wherever a final decree of any court of chancery has been or shall hereafter be rendered against the defendant or defendants, directing the conveyance of the legal title for lands to the plaintiff or plaintiffs, if it shall appear to the satisfaction of such court that the defendant or defendants shall fail or refuse to comply with the decree of said court, it shall and may be lawful for such court to appoint one or more commissioners to make a conveyance of said title to the plaintiff or plaintiffs by deed agreeably to the decree of said court; which deed shall be acknowledged and recorded in the office of the court where the said decree shall have been entered; which deed shall effectually vest the legal title in said plaintiff or plaintiffs agreeably to the decree of said court: *Provided, however,* that the said defendant or defendants may set aside the said deed, if the same be obtained by fraud or cozen: *Provided also,* that the defendant shall not be deprived of a re-hearing by a bill of review or otherwise, in the same manner as if this act had never been passed.

Where conveyance to be recorded.

May be set aside where obtained by fraud, &c.

Proviso, saving to defendant the benefit of a bill of review.

Courts of chancery to appoint commissioners to convey lands of non-resident defendants.

Sec. 2. *And be it further enacted, That* wherever a final decree of any court of chancery has been or shall hereafter be rendered against a defendant who is a non-resident, decreeing a conveyance of the legal title for lands, if such non-resident shall not, on or before the day in such decree mentioned for making the conveyance, make or cause the same to be made according to said decree, it shall be lawful for the court to appoint one or more commissioners to make said conveyance, which when made shall vest the legal title in said complainant.

This act to be in force from the passage thereof.

## CHAPTER CCCCLIV.

1807.

*An ACT for opening and establishing a State Road.*

Approved February 16, 1808.

WHEREAS it is represented to the present general assembly, that the opening of a convenient waggon road, from Paris, in Bourbon county, by the mouth of Fleming, Flemingsburg, and the Ohio salt licks, in Lewis county, to meet the Virginia state road at the mouth of Big Sandy, will be of great public utility: therefore,

Sec. 1. *Be it enacted by the general assembly,* That James Parkes, George Stockton, sen. and William P. Roper, of Fleming county, Rowland T. Parker of Lewis county, and Francis Waring, Esq. of Greenup county, or a majority of them, be, and they are hereby appointed commissioners, to be vested with full power and authority to view and mark out a way for a waggon road from Paris, in Bourbon county, by the mouth of Fleming, Flemingsburg, and the Ohio salt licks, in Lewis county, to meet the Virginia state road at the mouth of Big Sandy river.

Commissioners appointed.

To view, mark, &amp;c. a way for a road from Paris to Big Sandy.

Sec. 2. *And be it further enacted,* That the said commissioners, or a majority of them, having, on a day by them named, assembled themselves in the town of Flemingsburg, or such other place as may be convenient, shall proceed to view and mark out a way for a waggon road as aforesaid, having due regard therein to the nearest and best way for the same, which review being so made, shall be by them reported specially under their hands and seals, to the next court for Fleming county, to be recorded in said court.

Commissioners, where to meet.

To make report.

Sec. 3. *And be it further enacted,* That upon the application of any person or persons who may be injured or aggrieved by the opening or passage of said road through their lands, to the said commissioners, they, or any two of them, are hereby authorised and directed to issue their order to the sheriff of either of the said counties through which the said road may pass, paying due regard to the county in which such injury may be complained of; which said order shall be framed by the said commissioners and signed and sealed by two or more of them, and shall be in the nature of a writ of *ad quod damnum*, directing the said sheriff, upon a day

Persons injured by the road, how redressed.

1807.

therein to be stated, to cause a jury of the vicinage, ~~no~~ wise related to the said applicant, who shall be freeholders of the county, to meet on the lands said to be injured, and the said jury being charged on oath by the sheriff, shall proceed to view the lands through which said road may pass, and ascertain to the best of their judgment the damages sustained by such applicant, which shall be certified under their hands and seals, and attested by the sheriff, and by him returned to the court of the county where such inquest may be made, at the next term thereof, to be entered of record in said court.

Sec. 4. *And be it further enacted*, That before the said commissioners shall direct the opening of said road through such land as may be objected to, they shall pay to the right owner thereof, or his legal agent, the amount so assessed by the said jury.

Commissioners  
to obtain sub-  
scriptions.

How collected  
and applied.

Sec. 5. *And be it further enacted*, That the said commissioners, or a majority of them, shall be, and they are hereby authorised and directed to draw up and set forward a subscription or subscriptions for obtaining money or property for defraying the expense of opening said road, and they are hereby authorised to collect such money or property so subscribed, in like manner as sums of like amount are collected by law, to be applied to the purposes aforesaid.

To cause the  
road to be open-  
ed.

Sec. 6. *And be it further enacted*, That so soon as in the opinion of said commissioners, or a majority of them, there is a sufficient sum or sums of money or property subscribed for the completion of said road, they shall employ a sufficient number of hands for opening the same, which hands shall be under the direction of said commissioners, and shall be paid by them out of the sum or sums of money or property subscribed as aforesaid.

Compensation  
to sheriffs.

Sec. 7. *And be it further enacted*, That the sheriff or sheriffs which may be employed under this act, shall be entitled to the like fees which he or they would have been entitled to for like services in other cases, to be paid by the applicant, or by the county where such service may have been rendered, in the manner directed by law.

County courts  
to have roads  
kept in repair.

Sec. 8. *And be it further enacted*, That so soon as the said commissioners shall have said road opened agreeably to this act, the different county courts through which it may pass, shall take it under their direction, by

appointing surveyors over the same, and allotting to them a sufficient number of hands, for keeping the same in repair agreeably to law.

1807.

Sec. 9. *And be it further enacted*, That the commissioners, for each day they may be employed in viewing and marking said road, shall severally be entitled to the sum of two dollars, which, together with such damages as may be assessed by a jury in favor of any individual, shall be paid out of the funds subscribed in pursuance of this act.

Compensation  
to the commis-  
sioners.

Sec. 10. *And be it further enacted*, That the said road being viewed, opened and cleared out in manner aforesaid, shall, and the same is hereby established a public highway, subject to the same rules, laws and regulations that other public roads within this commonwealth are subjected to.

Road declared a  
public highway.

This act to be in force from the passage thereof.

#### CHAPTER CCCCLV.

*An ACT for opening a Road from Buckley's Ferry, on Kentucky River, to Bairdstown, also a Road from Knox Court-House towards Pulaski Court-House.*

Approved February 16, 1808.

WHEREAS it is represented to the present general assembly, that the public would be greatly benefited by opening a road from Buckley's ferry, on the Kentucky river, to intersect the road leading from Delaney's ferry to Bairdstown, at Colbert's settlement: therefore,

Sec. 1. *Be it enacted by the general assembly*, That Jeremiah Buckley and Samuel Watkins, of Franklin county, and Andrew M'Knight and Samuel Berry, jun. of Woodford county, shall be, and are hereby vested with power to cause a waggon road to be opened from Buckley's ferry on the Kentucky river, to intersect the Delaney's ferry road at Colbert's settlement, having due regard to the nearest and best way for the public good; and should any person through whose land the said road should be viewed, object to the opening of the same, the sheriff of the county in which the land may lie, shall, at the direction of said commissioners, or any two of them, summon a jury to meet upon the land on a certain day in the said commissioners' order mentioned, who, after being qualified, shall ascertain the damages that may accrue by the opening said road, and the road

Commissioners  
appointed.

Their power &  
duty.

Persons injured  
by the passage  
of the road, how  
redressed.

1807.

shall not be opened until such damages shall be paid by the commissioners.

Commissioners  
to open sub-  
scriptions.

Proceeds, how  
applied.

How recovered.

From Knox  
court-house to  
Pulaski.

Sec. 2. *Be it further enacted*, That the said commissioners, or a majority of them, are hereby authorised to open subscriptions to raise a fund to be applied in payment of the damages aforesaid (if any) and in aid of opening said road, also in paying any other necessary charges touching the same, which they, or a majority of them may direct; and said commissioners are hereby vested with power to sue for and recover any sum or sums so subscribed, in the same manner sums of the same amount are usually recovered, which money so recovered, shall be applied for the purposes aforesaid.

Sec. 3. *And be it further enacted*, That John Balenger, Richardson Herndon, Robert Boyd, and Benjamin Thurman, or any three of them, shall have power, and they are hereby authorised to cause to be opened a road from Knox court-house to intersect the road leading from Langford's to Pulaski court-house, at or near Benjamin Thurman's, and shall in every respect be ruled and guided by the regulations herein before recited.

This act shall be in force from its passage.

#### CHAPTER CCCCLVI.

##### *An ACT making provision in part for the Guard over Joel Elkins.*

Approved February 16, 1808.

He was prosecuted for, and convicted of murder, in Clay county. There was no jail, and it was necessary to keep a guard over him, from his apprehension until his execution. This act allowed 450 dollars, in part pay of the expenses.

#### CHAPTER CCCCLVII.

##### *An ACT for the relief of Frances Redding.*

Approved February 16, 1808.

This act permitted her to sue Elijah Redding for a divorce, in Jefferson county, and to obtain it on a jury's finding that he had abandoned her six years, had cruelly treated her, and lived in adultery with another woman.

#### CHAPTER CCCCLVIII.

##### *An ACT for the relief of Nancy Dickison.*

Approved February 16, 1808.

This act permitted her to sue in Shelby court for a divorce from her husband, Thomas Dickison, and to obtain it on a jury's finding that he had abandoned her, and that at the time of the abandonment there was a prosecution for felony depending against him.



XVI. YEAR OF THE COMMONWEALTH.

465

CHAPTER CCCCLIX.

1807.

*An ACT concerning the trial of Thompson Taylor.*

Approved February 16, 1808.

He was indicted for murder, in Bullitt. This act, on account of unusual prejudices and party spirit there prevailing, permitted a change of venue to Nelson.

CHAPTER CCCCLX.

*An ACT to extend the right of publishing certain Advertisements to the Editor of the Argus of Western America.*

Approved February 16, 1808.

CHAPTER CCCCLXI.

*An ACT for the relief of the heirs of James Bristoe, deceased.*

Approved February 16, 1808.

On account of adversity and poverty, they were allowed time until they arrived at age, which appears to have been the space of 18 years, to pay the state price for 100 acres of land, and no interest in the mean time to accrue.

CHAPTER CCCCLXII.

*An ACT for the benefit of Daniel Kesler.*

Approved February 16, 1808.

This act authorised him to locate 200 acres of land, on the waters of Russell's creek, for the purpose of water works, paying the state price within one year, and erecting a grist mill within six.

CHAPTER CCCCLXIII.

*An ACT for the relief of Robert Wilson.*

Approved February 16, 1808.

By mistake a patent had issued for him on a certificate which never had been assigned to him, in place of one which had. This act directed that patent to be cancelled, and a proper one to issue.

CHAPTER CCCCLXIV.

*An ACT for the relief of John Thurman.*

Approved February 16, 1808.

He had, by the mistake of his agent, paid the state price and obtained a patent on a certificate which did not belong to him. This act directed a relinquishment, authorised the cancelling of that patent, and the emanation of a new one on his proper certificate.

## DECEMBER SESSION,

1807.

## CHAPTER CCCCLXV.

*An ACT to legalise the proceedings of certain County Courts in this Commonwealth.*

Approved February 16, 1808.

The counties were Fleming, Pendleton, Henderson, Logan, Clay, and Hopkins; and the proceedings legalised were irregularities in laying the levy.

## CHAPTER CCCCLXVI.

*An ACT empowering Commissioners to sell and convey a part of the Public Square in the Town of Winchester, and for other purposes.*

Approved February 16, 1808.

The other purposes were, authorising the county court to purchase ground for building a stray pen on.

## CHAPTER CCCCLXVII.

*An ACT for the conditional Divorce of James and Hannah M'Collister.*

Approved February 16, 1808.

This act authorised James to sue Hannah for a divorce, in Madison court, and to obtain it on a jury's finding that she had deserted him for seven years, had refused to return to him, and had had several children under circumstances convincing to the jury that they were barely begotten.

## CHAPTER CCCCLXVIII.

*An ACT concerning the Town of Maysville, in the County of Mason.*

Approved February 16, 1808.

WHEREAS it is represented to the present general assembly, that the several acts for the regulation and well ordering the town of Maysville, in the county of Mason, are defective and ought to be amended: therefore,

Sec. 1. *Be it enacted by the general assembly, That the trustees of the town of Maysville, in the county aforesaid, shall, from and after the passage of this act, have jurisdiction over all matters and things which may exist or happen, from low water mark of the river Ohio adjoining said town to the present limits thereof, as fully and completely as they heretofore have had within the limits of said town, any law to the contrary notwithstanding.*

Sec. 2. *Be it further enacted*, That the first section of the act entitled "an act concerning the town of Maysville, in the county of Mason," passed December 1, 1803, shall be, and the same is hereby repealed.

1807.

This act shall be in force from its passage.

### CHAPTER CCCCLXIX.

#### *An ACT for improving the Navigation of Green River.*

Approved February 16, 1808.

SECTION 1. *BE it enacted by the general assembly*, County courts. That it shall and may be lawful for the county courts of the several counties through or by which so much of the Green river may run as is navigable, to cause the same to be cleared out and kept in a situation fit for navigation, and for that purpose shall annually in the months of July, August or September, lay off said river into precincts or divisions, and appoint an overseer to each precinct or division, and allot a sufficient number of hands, of the male titheables of the county, to keep the same open for navigation.

Sec. 2. *And be it further enacted*, That it shall be the duty of the overseers respectively to call on the hands to each of them allotted, and within one month thereafter, or as soon thereafter as practicable, to proceed with such hands and remove all fish-pots and dams of every description, unless erected under the authority of the legislature, remove all logs, cut and clear away all timber projecting over said stream, shrub all points of islands, and remove such other obstructions in the channel as may impede the navigation of said river; and any overseer who may fail in doing his duty, when appointed and served with a copy of the order of his appointment, shall be subject to the same penalties, recoverable in like manner, as are provided against overseers of roads; and for every titheable failing, when called on, shall be paid the sum of seventy-five cents, in the recovery of which masters shall be liable for their servants or apprentices under their direction.

Duty of overseers.

Penalty on overseers.

How recovered.

Penalty on the hands.

Sec. 3. *And be it further enacted*, That the penalties imposed on the hands failing to work, shall be recoverable by the overseers upon a warrant before any justice of the peace, and applied one half to the further improvement of the navigation of the river, and the other half

Penalty on the hands, how recovered &amp; applied.

1807. *to the use of the overseer : Provided, however, that any titheable may be exonerated by the payment of seventy-five cents per day to the overseer, when called on to work, which the overseer shall apply to the employment of hands to work in the place of such titheable, for whose labor compensation shall be thus made.*

Hands working on river exempt from working on roads.

Sec. 4. *And be it further enacted, That the said county courts shall exonerate from working on public roads, all such as shall be assigned to work on the river ; and the number of days each titheable shall be bound to work on the river, shall not, in any one year, exceed three.*

Majority of justices must concur in orders under this act.

Sec. 5. *And be it further enacted, That a majority of the county court justices of each county shall be present and concur in any order to be made under this act, and the said county court shall cause a copy of their order to be served on any overseer they may appoint.*

Penalty for placing obstruction in said river,

Sec. 6. *And be it further enacted, That any person who shall build any dam not authorised by law, or place any other obstruction to navigation in said stream, shall, on conviction before any justice of the peace, forfeit and pay the sum of ten dollars, one half to the use of the informer and the other half to the use of the commonwealth, and such dam or obstruction shall be abated as a nuisance, by the overseer.*

*This act shall commence and be in force from its passage.*

#### CHAPTER CCCCLXX.

*An ACT authorising the sale of certain Lands for the benefit of Bourbon Academy.*

Approved February 16, 1808.

WHEREAS it is represented to the general assembly, that it would promote the utility of the Bourbon academy if philosophical apparatus was obtained for the use thereof, and that the funds of said academy are insufficient for that purpose : therefore,

Sec. 1. *Be it enacted by the general assembly, That the trustees of said academy be, and they are hereby authorised to sell and convey any quantity, not exceeding one half, of the lands heretofore vested in said trustees, by former acts of the legislature of this state, and that a conveyance signed by the president of said board,*

and attested by their clerk, pursuant to an order of a majority of said board of trustees, shall be sufficient to pass the title to said lands: *Provided*, that said conveyance is acknowledged and recorded as other conveyances are by law; and said trustees shall have the power to receive any money or property which may be given or transferred by individuals to the said academy, which, when collected, shall be applied to the purpose of obtaining a philosophical apparatus, and the balance, if any, to be applied to the purchase of books, and such other purposes as the said trustees shall deem advantageous for the institution.

1807.

This act shall be in force from the passage thereof.

---

#### CHAPTER CCCCLXXI.

*An ACT to empower the Trustees of Bairdstown, Nelson County, to pass other and further By-Laws for the better regulation of said Town.*

Approved February 17, 1808.

WHEREAS it is represented to the present general assembly, that the trustees of Bairdstown, in Nelson county, have doubts whether they have power to pass any by-law compelling owners of lots in said town to keep and furnish fire buckets in every dwelling-house in said town, for the use of said town; as also to make foot-ways on their lots fronting streets: therefore,

*Be it enacted by the general assembly*, That the trustees of said town, and their successors, shall have power to pass any by-laws compelling the owner or owners of a lot or lots in said town to keep and furnish in every dwelling-house on said lot or lots, fire buckets, and also to pave and make a foot-way on all such part or parts of their lot or lots, which said trustees may by law direct, fronting streets, with stone, brick, or hewed logs, such as said trustees may deem expedient; and said trustees shall have the further power of passing all such by-laws for the regulation of said town as they may deem necessary to the interest and policy of said town, not inconsistent with the laws and constitution of this state or the United States, and to lay such fine or fines for the breach of any of their by-laws, not exceeding fifteen dollars, to be sued for by warrant before a justice of the peace, in

1807.

the name of the said trustees, and applied to the benefit of the said town, as the trustees may think most proper: *Provided, however,* that each lotholder shall have ten months notice before any penalty shall be inflicted on them for failing to pave the front of their lot or lots as shall be directed by the trustees.

This act shall be in force from its passage.

#### CHAPTER CCCCLXXII.

*An ACT to amend an act appointing Commissioners to settle the Land Claims of the Heirs of Jacob Brehmer, deceased.*

Approved February 17, 1808.

WHEREAS it is represented to the present general assembly, that Jacob Brehmer, late of Nelson county, departed this life intestate, leaving claims to several tracts of land in different parts of this state, some of which the immediate relatives of the heirs of the said Jacob, have prayed may be sold for the support and maintenance of his children, and for the purpose of securing titles to the balance of the said claims of land, which prayer is thought the more reasonable in as much as the children of the said Jacob are so unfortunate as to lack natural understanding, and have no other possible means of support: and whereas the act approved December 19th, 1804, entitled "an act appointing commissioners to settle the land claims of the heirs of Jacob Brehmer, deceased," has been found defective, and the commissioners could not be procured to act: wherefore,

Commissioners  
appointed, their  
powers & duty.

Sec. 1. *Be it enacted by the general assembly,* That Austin Hubbard, Henry Floyd, jun. and Clement Hamilton, be, and they are hereby appointed commissioners, for the purpose of investigating the legal or equitable interest and title which the heirs of the said Jacob Brehmer, deceased, have of, in or to any lands in the state of Kentucky, or elsewhere; and for clearing out of the land office any or all of the land titles of the heirs of the said Jacob Brehmer, deceased, whether the same be entered in the said Brehmer's name or others, or assigned, or otherwise conveyed to him; and for securing complete titles to said claims of land, either legal or equitable, and reducing the said lands to possession, for the benefit of the said heirs.

Sec. 2. *And be it further enacted*, That to enable the said commissioners to perform the duties enjoined on them by this act, they, or a majority of them, are hereby authorised and empowered to dispose of, in the best manner they can, and for the best price they can obtain, such part of said land claims, either legal or equitable, which may have been surveyed, as will be sufficient to defray the expenses necessary to obtain titles to the balance thereof: *Provided, however*, that the commissioners shall not dispose of land more than sufficient to raise the sum of one thousand dollars: and if on the settlement of the accounts of the said commissioners, any balance shall be due to the said children, it shall be paid to their guardian or other person appointed by the court to take care of them, and applied for their benefit, as the law directs; and in case any sale or sales shall be made by said commissioners, either of the legal or equitable interest of the said children, they shall, in making a conveyance, transfer, or assignment thereof, convey, transfer or assign only the interest and claim of such heirs at the time of such sale; nor shall the said commissioners by any means obligate the said heirs to make good the title or titles to any land sold by them under the directions of this act, or to be liable for any monies or other species of property, in case the claims sold by them for the benefit of the children, as directed by this act, shall be lost or taken away in consequence of other prior or better claims or purchases whatsoever.

Sec. 3. *And be it further enacted*, That the said commissioners shall enter into bond with approved security in the Nelson county court, payable to the justices thereof, in the penalty of one thousand dollars, conditioned for the faithful performance of the duties enjoined on them by this act, and that they will faithfully and truly apply all monies or other species of property that may arise from the sales of any lands under this act, to the purposes therein mentioned, and to no other purpose whatever.

Sec. 4. *And be it further enacted*, That the county court of Nelson shall from time to time, as to them may seem just, make such allowance to the commissioners as in their opinion may be right, not exceeding two dollars per day each, for the services performed by them under this act, having due regard to all the vouchers produced

1807.

Empowered to  
sell part of the  
lands.Sum which may  
be raised by the  
sale.Surplus upon  
sale, how dis-  
posed of.Kind of con-  
veyance.Commissioners  
to give bond.County court to  
make an allow-  
ance to com-  
missioners.

1807. by the said commissioners from the several officers legally entitled to fees for services in obtaining titles to the said lands, and the number of days they or either of them or their agents may be actually engaged in doing the duties hereby enjoined on them, accounts of all which shall be produced in open court; which allowance so made, and certified by the clerk, and entered of record, may be deducted by the said commissioners out of the sales of such claims and kept by them for their services done under this act; and the said commissioners hereby appointed shall have full power and authority to perpetuate testimony relative to the said land claims, in the same manner, and under the same rules and regulations as are now provided in other cases. The act passed December 19th 1804, entitled "an act appointing commissioners to settle the land claims of the heirs of Jacob Brehmer, deceased," shall be and the same is hereby repealed.

How paid.

Testimony how perpetuated.

Repealing clause.

This act shall commence and be in force from its passage.

#### CHAPTER CCCCLXXIII.

*An ACT to amend an act entitled "an act regulating Elections."*

Approved February 19, 1808.

See the observations on Chap. 6, of Vol. I.

*BE it enacted by the general assembly, That where a vacancy shall happen in the house of representatives, prior to the meeting of the legislature, by the death of any person elected to that house of the general assembly, it shall be the duty of the sheriff of the county where such vacancy may happen, to certify without delay to the governor, the name of the person that may so die, and the county or counties such person was to have represented; and the governor thereupon shall be authorised to issue a writ of election to such county or counties for an election to be held at the usual place of holding elections, on such day as he shall name in the said writ; and all such elections shall be conducted as elections of the like nature are by the law above recited directed.*

This act shall be in force from and after the passage thereof.



## CHAPTER CCCCLXXIV.

1807.

*An ACT supplementary to the act entitled "an act for erecting a new County out of the Counties of Madison and Clarke."*

Approved February 19, 1808.

WHEREAS it is represented to this general assembly, that advantages will result to some of the citizens of this state, included within the county of Estill, to remain in the county of Madison: therefore,

Sec. 1. *Be it enacted by the general assembly,* That Part of Estill all that part of the county of Estill lying west of a line added to Madison. beginning on Drowning creek, about one mile above Henry Beaty's mill on said creek; thence a straight line to the Copperas lick, on the Red lick fork of Station Camp creek; thence a south-east course to the Clay line; shall be, and the same shall forever hereafter be considered as a part of the county of Madison, any law to the contrary notwithstanding.

Sec. 2. *And be it further enacted,* That the county of Estill shall be, and the same is hereby constituted an Election precinct. election precinct, to be attached to the county of Clarke, for the purpose of electing senators and representatives of this commonwealth, and the elections shall be held at the place which may be fixed on for the seat of justice Place of holding elections. for the county of Estill, to be governed by the same laws, rules and regulations to which other elections are subjected, as to the appointing judges and clerks, taking votes, comparing polls, and the like; and the sheriffs of said counties shall meet at the court-house of Clarke, Sheriffs to meet at Clarke court-house. on the next Saturday after the election, who shall compare polls and report who are duly elected.

This act to be in force from the passage thereof.

## CHAPTER CCCCLXXV.

*An ACT to alter the time of the annual meeting of the General Assembly of this Commonwealth.*

Approved February 19, 1808.

SECTION 1. *BE it enacted by the general assembly,* That the annual stated meeting of the legislature shall commence on the second Monday in December in every year.

Sec. 2. The act passed at the session of 1806, altering the meeting of the legislature to the fourth Monday in December, shall be, and the same is hereby repealed.

## DECEMBER SESSION,

1807.

## CHAPTER CCCCLXXVI.

*An ACT adding part of the County of Casey to the County of Lincoln.*

Approved February 19, 1808.

WHEREAS it is represented to this general assembly, that through mistake a part of the county of Lincoln was taken into the county of Casey, that was not intended, the people within the bounds having petitioned to be annexed to the county of Lincoln: wherefore,

*Be it enacted by the general assembly,* That all that part of the county of Casey, within the following boundary, viz: beginning on the Pulaski line where it crosses Fishing creek; thence up Fishing creek to the mouth of the Rockhouse branch; thence up with the top of the west cliff of Fishing creek to the line dividing Casey from Lincoln county; thence eastwardly with said line to where it intersects the line between Lincoln and Pulaski; thence with the Pulaski line to the beginning; shall be added to and considered a part of the county of Lincoln, any law to the contrary notwithstanding: *Provided, however,* the sheriff of the county of Casey shall have full power to collect by distress all fees, fines, county levy, and revenue, due or to become due for the year 1807.

This act shall be in force from its passage.

## CHAPTER CCCCLXXVII.

*An ACT to authorise the Executors of Edmund Thomas to convey a Tract of Land.*

Approved February 19, 1808.

## CHAPTER CCCCLXXVIII.

*An ACT for the benefit of the Winchester and Montgomery Academies.*

Approved February 19, 1808.

WHEREAS it appears to the present general assembly, that the plats and certificates of surveys made on the donation lands to the Winchester academy (under an act of a former legislature, entitled "an act to establish and endow certain academies") was duly returned to the register's office of this commonwealth, and

that patents ought to have issued on said surveys the 21st day of June 1800, which was not done; and as doubts are now entertained whether the register is authorised to issue the same: for remedy whereof,

1807.

Sec. 1. *Be it enacted by the general assembly*, That the register of the land-office shall be, and he is hereby authorised to issue patents upon said surveys, returned as aforesaid, any law to the contrary notwithstanding.

Sec. 2. And whereas by the act making the donation aforesaid, the trustees or their successors are required, within ten years from the passage of said act, to establish a public school, consisting of at least twelve scholars, and in which there is to be taught the English language, writing, arithmetic, and the common branches of the mathematics; and upon failure thereof the said donation lands revert to the commonwealth; and whereas it is represented to the present general assembly that the trustees of the said Winchester academy have not, owing to a division existing among said trustees, complied with the requisitions of the said donation act: for remedy whereof,

Sec. 3. *Be it enacted*, That the said trustees be and they are hereby allowed the additional term of two years for the compliance with said act, making the donation aforesaid.

Sec. 4. *Be it further enacted*, That the trustees of the Montgomery academy shall be allowed the further time of five years to complete the necessary buildings, as they are by law directed.

This act shall be in force from the passage thereof.

—\*:\*:~::~\*:\*—  
CHAPTER CCCCLXXIX.

*An ACT to legalize the proceedings of the County Court of Hardin.*

Approved February 19, 1808.

The proceeding legalised was an irregularity in laying the levy.

—\*:\*:~::~\*:\*—  
CHAPTER CCCCLXXX.

*An ACT providing for the removal of obstructions to the navigation of Floyd's Fork.*

Approved February 19, 1808.

WHEREAS it is represented to the general assembly, that Floyd's fork from Query's mill on the same to

1807. its confluence with Salt river, admits of the passage of boats in high water : therefore,

To be kept open for the purposes of navigation,

Certain obstructions prohibited,

Obstructions to be abated.

At what time.

Penalty for failing to remove such obstructions.

Provido respecting mills already built,

How penalties recovered & applied.

Sec. 1. *Be it enacted by the general assembly,* That Floyd's fork from Query's mill on the same to its junction with Salt river, shall be deemed and considered a navigable stream and public highway, for the purposes of navigation, and that from and after the first day of November next, no fish-dam, bar, or other obstruction to the navigation of the same, shall be erected, made or built thereon or across the same, under the penalty of three pounds for every month the said fish-dam, bar, or other obstruction shall be continued.

Sec. 2. *And be it further enacted,* That where any such fish-dam, bar, or other obstruction to the navigation of the said stream, shall have heretofore been erected, built or made across said stream, it shall be the duty of the person who erected, built or made the said obstructions, to demolish and remove the same on or before the said first day of November; and if any of the said fish-dams, bars, or other obstructions as aforesaid, shall be continued or suffered to remain after the said time, the person erecting, making, building and continuing the same, shall be subject to the penalty of three pounds for every month during which the same shall be continued or permitted to remain: *Provided,* that this act shall not be so construed as to affect or impair the rights or property of any person owning a mill legally established, or which may hereafter be legally established on said stream. All penalties imposed by this act shall be recovered by warrant before a justice of the peace of the county in which the said penalties shall be incurred, as in other cases, for the use of the person suing for the same.

This act shall be in force from and after its passage.

#### CHAPTER CCCCLXXXI.

*An ACT to amend "an act establishing the Town of Shepherdsville, and for other purposes."*

Approved February 19, 1808.

Town established:

SECTION 1. *BE it enacted by the general assembly,* That the town of Shepherdsville shall be, and the same is hereby established upon its present site, agreeably to the original plan of said town, and the trustees thereof

are hereby authorised and empowered to have the same re-surveyed, and a new plan made out, which shall be returned to the clerk's office of the county of Bullitt, and there entered of record.

1807.

Re-survey to be made.

Sec. 2. *And be it further enacted*, That the trustees of said town, or a majority of them, may from time to time impose and levy such taxes and duties on the inhabitants of said town, and on the owners and occupiers of lots and land within the limits of the same as may be deemed necessary to discharge the expenses accruing in the regulation and government of the said town; the trustees may appoint from time to time a fit and proper person as collector, who shall give bond to said trustees, with approved security, in the penal sum of five hundred dollars, conditioned for the faithful and due performance of the duties of his said office, to be filed with the clerk of the county court of Bullitt; and any person or persons aggrieved by the misfeasance or malfeasance of said collector, may put said bond in suit and recover such damages as may have been sustained; which bond shall not be void on the first recovery, but may be put in suit from time to time until the whole penalty shall be recovered.

Trustees may levy taxes.

Collector to be appointed.

To give bonds

Legal effect of the bond.

Sec. 3. *Be it further enacted*, That it shall be the duty of the said collector to collect and account for all such sums of money which from time to time may be levied by the trustees of said town, and if any person or persons liable to pay any such sum or sums of money levied as aforesaid, shall fail to pay the same on demand, it shall be lawful for said collector to seize and expose to sale at public auction, any real or personal property of such person or persons within said town to satisfy said demand: *Provided always*, that the said collector shall give ten days notice thereof in writing set up at the courthouse door and other public places in said town.

Power and duty of the collector.

To give notice of the sale.

Sec. 4. *And be it further enacted*, That the trustees, or a majority of them, may, should they deem it expedient for the good of said town, release the right of forfeiture that may have or may hereafter accrue to them in consequence of the non-improvement of lots in the said town, or they may permit the same to be redeemed on such terms as they may deem equitable and for the benefit of persons interested therein.

Trustees may release forfeitures.

Or permit the same to be redeemed.

1807.

Trustees of the  
Bullitt academy  
appointed & in-  
corporated.

Sec. 5. *And be it further enacted*, That Henry Christ, Frederick W. S. Grayson, John W. Beckwith, James Alexander, David Brown, William Simmers, Samuel Samuel Crow, Benjamin Summers, and Thomas Sanders, shall be, and they are hereby appointed trustees for the Bullitt academy, and they and their successors are hereby constituted a body corporate and politic, with perpetual succession, in the stead and place of the former trustees of said academy, to be known and distinguished by the appellation of "the Trustees of the Bullitt Academy," and they and their successors are hereby invested with similar powers and authorities as have been heretofore given or granted to the trustees of other academies within this state; and all acts and parts of acts of assembly within the purview of this act, are hereby repealed.

This act to be in force from its passage.

#### CHAPTER CCCCLXXXII.

*An ACT to amend an act providing for the payment of the Debt due this Commonwealth, for the sale of Vacant Lands.*

Approved February 19, 1808.

See the prelection to Chap. 220, of Vol. I.

Sales to com-  
mence on first  
Monday in June

And to com-  
mence annually  
on that day.

SECTION 1. *BE it enacted by the general assembly*, That the sales of lands directed to be begun on the third Monday in December, 1807, and be continued from day to day until the whole is completed agreeably to the second section of the act entitled "an act providing for the payment of the debt due this commonwealth for the sale of vacant lands, and the sales of which have been suspended until the first Monday in June next, by an act passed during the present session of the general assembly, entitled "an act to suspend the sale of lands for the debt due the state," shall commence on the said first Monday of June next, and continue from day to day until the whole is disposed of, the register taking for his guide the list already made out by the auditor, together with the interest in the meantime accruing thereon; and the register shall proceed on the first Monday of June in every year thereafter, to sell, at public auction, at the state-house door, for ready money, all lands upon which

the instalments shall not be paid agreeably to the provisions of the first recited act, taking for his guide a list to be furnished in each year by the auditor, in manner herein after directed: *Provided, however*, that no tract shall be sold at a less price than will pay the instalment due thereon, and that all lands shall be sold subject to the lien of the commonwealth on the land for the original purchase money or state price; that all tracts that will not command the instalments and interest, shall be stricken off to the state, and be liable to the future disposal of the legislature, redeemable, however, at any time, within two years from the day of sale, upon the payment into the public treasury of the sum for which it was sold, and also such instalment or instalments as may have become due upon the said land, on or before the day of redemption, with interest on each sum, to be computed at the rate of twenty-five per centum a year, from the day of sale, or of payment of the after instalment, (as the case may be) until the redemption: moreover, the purchaser of any tract of land sold as aforesaid, shall pay the instalment or instalments which may become due after his purchase in the same manner; and in case of failure, the land shall be subject to sale in like manner, and at the same time, as if it had remained the property of the former owner: *Provided also*, that all lands purchased by individuals shall be redeemable by the former owner, upon his, or her, within one year from the date of the sale, paying into the public treasury (in trust for the purchaser) the sum for which the land was sold, together with any instalment or instalments which may have in the mean time become due, together with an interest, as in case of lands stricken off to the state, and in either case, the person redeeming shall file the treasurer's receipt with the auditor, and take his receipt for the same; and in case such payment for redemption shall be in trust for a purchaser as aforesaid, such purchaser shall forthwith be entitled to the auditor's warrant on the treasurer for the amount thereof, which shall be accordingly paid out of the treasury.

Sec. 2. *Be it further enacted*, That in order to enable the register to make the sales aforesaid, the auditor shall on or before the first Monday of June in every year, transmit to the register a list of all head right claims on which the instalments may not then have been paid, ac-

1807.

Proviso.

In what case to be stricken off to the state.

How redeemable therefrom.

And from individuals.

Purchasers how reimbursed, when lands are redeemed.

Auditor to furnish the register with a list of instalments due.

1807.

Payments, how  
to be made.Register to give  
certificates to  
purchasers.Who shall pay  
to the treasurer.Register to file  
the treasurer's  
receipts with  
the auditor.Interest remit-  
ted on certain  
conditions.

Provido.

Provision for  
payments twice  
made.

Provido.

according to the requisitions of the act aforesaid, passed December 1806; and that after the lists aforesaid shall be delivered to the register, payments shall take place in the following manner, to wit: the person wishing to pay shall procure from the register a statement of the amount, and pay the sum therein specified into the treasury, and take the treasurer's receipt, which he shall file with the register and take his receipt therefor, and the register shall give the person credit for the amount so paid; and any person who may purchase at the register's sale shall obtain from the register a certificate of his purchase and the amount to be paid, and shall immediately pay such amount into the treasury, obtain the treasurer's receipt and lodge the said receipt with the register, who shall give the purchaser his receipt for the same, stating therein the purchase and payment made; which receipts of the treasurer, the register shall (within twenty days after the sales shall be closed annually) file with the auditor and take his receipt for the same.

Sec. 3. *Be it further enacted*, That every person indebted to this commonwealth for any tract of land, agreeably to the before recited act, who shall, on or before the 27th day of December 1808, pay into the public treasury the whole amount of the state price for said land; or in case of having paid part, shall pay so much more as shall amount to the original state price, shall be entitled to a discount of the interest due and to become due: *Provided*, that this provision shall not be construed to suspend the sale by the register in case of failing to pay up any instalment; and no person shall be entitled to the benefit of this section, whose land may be sold for the non-payment of any instalment or instalments.

Sec. 4. *Be it further enacted*, That where any person or persons who may have paid twice on the same certificate, or may have paid more than by law has been required, the person shall be entitled to a credit for such over payment on any other land on which the state price may be due: *Provided, however*, that the person having so overpaid shall produce satisfactory vouchers to the auditor to that effect, and shall procure from the auditor a warrant expressing the amount so overpaid, which shall be receivable by the treasurer in payment for any other lands not paid for.



Sec. 5. *Be it further enacted*, That where any claim or claims held by certificate granted by any county court may heretofore have been relinquished in the county courts or in the surveyor's office, or may hereafter be relinquished in the offices of the surveyor or register, such relinquishment or relinquishments shall be considered as extinguishing the claim or claims, or any part thereof so relinquished, and the auditor and register shall in case of relinquishments made in the register's office, or in case of relinquishments produced from the surveyor's offices duly certified, or from the clerks of the county courts, note such relinquishment or relinquishments in the margin opposite the claim or claims, and thereafter such claim or claims, or part or parts thereof, so far as relinquished, shall not be exposed to sale for the state price: *Provided, however*, that nothing herein contained shall extend to the case of a relinquishment of a certificate obtained from the commissioners, and the subsequent procurement by virtue of such relinquishment of a certificate from a county court.

1807.

Provisions respecting relinquishments.

Sec. 6. *Be it further enacted*, That neither the auditor, treasurer, register, or any one of the clerks in either of those offices, shall purchase any land whatever at the sales to be annually made under this act; and that any land purchased by any one of them, either directly or indirectly, shall revert to the former owner, and the payment made by the purchaser shall be considered as made for the benefit of the said former owner.

Auditor, treasurer, register, &amp; their clerks, not to purchase at the sales.

Sec. 7. *Be it further enacted*, That the register of the land-office shall immediately after the passage of this act pay into the treasury all the monies he may have received, or such part thereof as he may not heretofore have paid under the law of the last session entitled "an act providing for the payment of the debt due this commonwealth for the sale of vacant lands," (except the two per cent. for his services) and shall obtain the treasurer's receipt therefor, which he shall lodge with the auditor and obtain his quietus thereupon.

Register to pay into the treasury former receipts on head-right lands.

Sec. 8. *Be it further enacted*, That if any purchaser at the sales directed by this act shall fail, immediately after the land may be cried off to him, to pay the amount of his bid, he shall forfeit and pay fifty per cent. on the amount thereof; and it shall be the duty of the register to recover the same by warrant before any justice of the

Penalty on purchasers not paying.

How recoverable.

1807. peace, who is hereby authorised to take cognizance thereof, any law to the contrary notwithstanding; and shall pay the same into the treasury, deducting ten per cent. for his trouble, and take the treasurer's receipt therefor; and file the same with the auditor: and the said register is hereby directed to set up such land for sale as though it had not been sold.

Register's fee.

Land to be again exposed.

Sec. 9. *Be it further enacted*, That where any person may have taken up land in his own name, under any law authorising the appropriation of land by settlement claims, and shall have resided thereon until his or her death, without having alienated the same, and his or her right to such land has descended or been devised to his or her child or children, who at the passage of this act may be under the age of twenty-one years, and such tract of land may heretofore have been or may hereafter be stricken off to the state, the same shall hereby be revested in such infant or infants, and not exposed to sale until such infant or infants may arrive to the age of twenty-one years: *Provided*, an affidavit made to the effect aforesaid by two credible witnesses before some circuit court shall be made and filed with the register before the sale; and if any person shall swear falsely in such affidavit, he shall be deemed guilty of perjury.

Provisions relative to orphans' land stricken off to the state.

Proviso.

Sec. 10. *Be it further enacted*, That in lieu of the compensation to the register provided for by the seventh section of the before recited act, the register shall receive the following compensation, that is to say—on all sales which shall be made to individual purchasers, the register shall, on the auditor's warrant, receive from the treasury such sum as shall be due him at the rate of two per centum on the amount of such sales, which warrant may issue at any time after the register shall have returned the list of sales to the auditor, together with the treasurer's receipts, and obtained the auditor's receipt for the same, as herein before provided for; and on such tracts as shall be struck off to the state, he shall be entitled to a compensation at the rate of two per cent. on the amount of redemptions only, for which compensations the register, as they become due to him, may obtain the auditor's warrants on the treasury, which shall be paid accordingly.

Register's compensation.

And whereas it is represented that sundry persons having obtained certificates for head-rights, which were

afterwards doubted on the score of specialty, had proceeded to obtain other certificates for the same land, and now stand charged on the two certificates with the state prices as for two tracts of land; for remedy whereof,

1807.

Sec. 11. *Be it further enacted*, That wherever the same person shall have obtained two certificates for the same land, it shall be lawful for such person to apply to the circuit court for the county in which the land lies, and on shewing to the court the dates and numbers of such certificate, and from whence they issued, and also prove to the satisfaction of the court that they are for the same land, it shall be lawful for the court on such application to combine and reduce the two certificates into one claim, a copy of which shall be duly certified to the register, and also to the auditor, which shall be duly noted in their respective offices; and thereafter the proprietor shall only be charged with the instalments on such combined claims at the rate of the state price on the highest certificate, and the register in issuing the patent shall take due notice of the claims on which such patent shall so issue; and the fees for the like services shall be paid to the clerk by the party on whose application such services are rendered.

Provision for persons who have obtained two certificates for the same land,

Sec. 12. *Be it further enacted*, That from and after the passage of this act, no removed certificate shall be located on any survey made by virtue of any certificate heretofore granted, or any military entry, or treasury warrant, nor on any lands the Indian title to which has been extinguished since the year 1793, nor any land on which any person shall be actually settled, although such persons may not have obtained a certificate for the same.

Removed certificates not to be located on certain lands.

This act shall be in force from its passage.

#### CHAPTER CCCCLXXXIII.

*An ACT for the relief of the Sheriff of Jefferson County.*

Approved February 19, 1808.

This act directed the allowance of a delinquent list, which had not been returned in time.

#### CHAPTER CCCCLXXXIV.

*An ACT amendatory of the laws regulating the Court of Appeals.*

Approved February 20, 1808.

*Vide Vol. I, Chap. 24, and the preface.*

SECTION 1. *BE it enacted by the general assembly*, That the court of appeals shall cause their decisions to

1807.

be so recorded as to shew the governing principle or principles thereof.

Sec. 2. *And be it further enacted*, That when a case shall be before the said court, in which two of the judges cannot with propriety adjudicate, it shall be lawful for the other two judges (not being also disqualified) to constitute the court for the trial of such particular case, and should they eventually differ in opinion therein, it shall amount to an affirmance of so much of the opinion of the inferior court, as shall be within such difference.

This act shall be in force from and after the passage thereof.

#### CHAPTER CCCCLXXXV.

##### *An ACT limiting Actions in certain cases.*

Approved February 20, 1808.

*Vide* Vol. I, Chaps. 161 and 258, and the prelections thereon.

WHEREAS creditors, purchasers, and others, are exposed to great injustice by the assertion by persons held in slavery, of dormant claims to their freedom, founded upon certain acts of the legislatures of Virginia and Pennsylvania, and the interest and peace of society requiring that all such claims should be brought to a speedy determination: therefore,

*Be it enacted by the general assembly*, That no writ, suit, or action, shall be sued out, commenced or prosecuted, by any person of color claiming his or her freedom, in consequence of a failure to comply with the abolition act of Pennsylvania requiring a registry of such person, or his or her ancestress, or in consequence of having been taken into Pennsylvania contrary to the provision of any act of the legislature thereof, or in consequence of a failure to take or record the oath prescribed by the act of the legislature of Virginia, entitled, "an act for preventing the further importation of slaves, or any act amendatory thereof, unless such writ, suit, or action shall be sued out, commenced, or prosecuted within two years from the passage of this act: and it shall and may be lawful for any defendant or defendants, who may be proceeded against contrary to this act, to give the same in evidence, without specially pleading it: *Provided nevertheless*, that nothing in this act contained shall be so construed as to vest or give a right of free-

## XVI. YEAR OF THE COMMONWEALTH.

483.

dom to any person or persons claiming it under the acts aforesaid, or any of them : *And provided further*, that if any such writ, suit or action, having been sued out, commenced or prosecuted within the time limited as aforesaid, shall be abated, discontinued or dismissed, or if verdict having been rendered the judgment shall be arrested, or judgment having been rendered, the same shall be reversed, it shall and may be lawful for the plaintiff or plaintiffs to sue out, commence or prosecute a new writ, suit or action, at any time within one year from such abatement, discontinuance, dismissal, arrest or reversal of judgment, and not after.

1807.

This act is in force from its passage.

### CHAPTER CCCCLXXXVI.

*An ACT concerning the collection of certain Officers' Fees.*

Approved February 20, 1808.

*Vide Vol. II, Chap. 174.*

SECTION 1. *BE it enacted by the general assembly*, That hereafter the sheriffs of this commonwealth shall be entitled to ten per cent. for the collection of all fee-bills which such sheriffs are bound by law to receive and receipt for, which commission shall be deducted out of the money collected. Sheriffs allowed 10 per cent. for collecting fees.

Sec. 2. *And be it further enacted*, That clerks and other officers shall have until the first day of April annually (instead of the first day of March) to put their fee-bills into the officers' hands for collection, and consequently distress shall not be made on those fee-bills until the tenth day of May annually, and the several sheriffs shall have until the first day of October annually to pay over to the clerks and other officers the money collected on the fee-bills as aforesaid. Further time to put fee-bills in to the officers' hands for collection.

Sec. 3. And to explain the law and hereafter prevent abuses thereof, *be it declared and enacted*, that for services performed from the first day of January to the last day of March inclusive, in each year, the fee-bills therefor shall not be put into the officers' hands for collection until the succeeding year. Fee-bills for certain services, when collectable.

Sec. 4. *And be it further declared and enacted*, That the several officers shall not have the right of distress for fee-bills beyond the year in which such fee-bills become due. To be sent out for collection within the year in which they become due.

1807.

came payable, unless such as shall have been actually sent out for collection and returned as delinquents, which fee-bill or bills may again be sent out the next year, and so from year to year until collection shall be actually made: *Provided*, that it shall appear from the endorsement made by the sheriff in each year that such fee-bill or bills had been regularly from year to year sent out for collection and returned as delinquent.

Penalty on the-  
riffs failing to  
pay money col-  
lected on fee-  
bills.

Sec. 5. *And be it further enacted*, That when judgment shall be rendered against a sheriff or a sheriff and his deputies for fee-bills put into his hands for collection and not accounted for, it shall be lawful for the judgment so to be entered as to make the principal sum bear interest at the rate of ten per cent. per year from the day on which it should have been paid until payment shall be made.

Where fee-bills  
are not sent out  
in time.

Sec. 6. *Be it further enacted*, That if any clerk or other officer within the purview of this act, shall by unavoidable accident be prevented from sending forth his fee-bills for collection within the times prescribed by this act, it shall be lawful for such officer, if a clerk, to prove the same in the court of which he is clerk, and if another officer, then in the court of the county in which such services shall have been performed; and if such court shall be fully satisfied of the truth thereof, they shall cause an entry thereof to be made in their record, expressing the unavoidable accident which shall have taken place, and thereupon such clerk or other officer may note the same specially on each fee-bill, whereupon such fee-bills so endorsed may be sent out for collection the succeeding year, and be regulated in other particulars by the provisions of law: *Provided, however*, that such order of court shall be made within that year in which such fee-bills ought to have been sent out, and not after. All acts contravening the provisions of this act, shall be, and the same are hereby repealed.

This act shall commence and be in force from its passage.

#### CHAPTER CCCCLXXXVII.

*An ACT to procure Reports of the Decisions of the Court of Appeals.*

Approved February 20, 1808.

*BE it enacted by the general assembly*, That it shall be lawful for the court of appeals to procure reports to

be made of all such decisions of the court since its establishment, as shall be deemed useful, and to certify to the succeeding general assembly what they shall deem a reasonable allowance, to be made to any person engaged therein, for the purpose of aiding the legislature in making due compensation.

This act shall be in force from its passage.

1807.

## CHAPTER CCCCLXXXIX.

*An ACT establishing Election Precincts in the Counties of Cumberland, Bracken, Livingston, and Boone, and for altering the Election Precinct in Pendleton.*

Approved February 20, 1808.

SECTION 1. *BE it enacted by the general assembly,* Precinct estab-  
That all that part of Cumberland county within the fol- lished in Cum-  
lowing bounds, to wit: beginning at the southern bound- berland.  
ary line of this state, between the mouths of Sulphur Boundaries.  
and Illwill creeks; thence including the settlements of  
the said Illwill creek to the Wayne county road, where  
it rises the hill near the head of Bear creek; thence to  
the mouth of Whetstone creek, on Cumberland river;  
thence up the said river to the mouth of Luster's creek;  
thence so as to include the settlements of said creek, to  
the Adair county line, near the mouth of the Sand Lick  
fork of Crocus creek; thence with the Adair county  
line to the Wayne county line; thence with Wayne  
county line to the state line; thence with the state line  
to the beginning; shall be an election precinct, and the  
place of holding elections for said precinct shall be at  
the house of Alexander Sproul. Place of hold-  
ing elections.

Sec. 2. *Be it further enacted,* That all that part of Precinct estab-  
the county of Bracken lying south of the following line, lished in Brack-  
beginning at the Mason and Bracken line a little above en.  
Christopher Disher's, so as to include him in the precinct, Boundary.  
thence a straight line across Bracken county to the Pen-  
dleton line, so as to include William Logan, Esq. in  
said precinct, shall be an election precinct; and the  
place of holding elections for said precinct shall be at  
the house of James Putman. Place of hold-  
ing elections.

Sec. 3. *Be it further enacted,* That all that part of In Livingston.  
the county of Livingston in the following bounds, to wit:  
beginning at the lower end of the long island on the Boundary.  
Tennessee river; from thence a straight line crossing

1807. Cumberland river at the mouth of Livingston; from thence a straight line to John Carmack's, sen.; from thence a direct line to Shaw's mill on Donaldson's fork of Tradewater; thence north forty-five east to Tradewater; thence up the same to the mouth of Montgomery's creek; thence up the same to the Christian county line; thence with the same to the Tennessee state line; thence with the same to the Tennessee river; thence down the said river to the beginning, shall be an election precinct; and the place for holding elections in said precinct, shall be at the court-house in the town of Eddyville.

Place of holding elections. Precinct in Boone. Boundary. Style. Place of holding elections. Sec. 4. *Be it further enacted*, That all that part of the county of Boone within the following boundary, to wit: beginning at the mouth of Landing creek, on the river Ohio; thence up the said creek to the head thereof; thence with the dividing ridge between the waters of Big-Bone and Gunpowder creeks to Presley Peak's, on the said ridge; thence to Caleb Summer's, on the county line; thence southwardly with the county line to the river Ohio; thence up the same to the beginning, shall be an election precinct, to be called and known by the name of the Big-Bone precinct; and that all elections therein shall be held at the house of Weedon Sleet, within the said election precinct.

Duty of the sheriffs severally. Of the county courts. Sec. 5. *Be it further enacted*, That the principal or sworn deputy sheriff of the counties of Cumberland, Bracken, Livingston and Boone, shall superintend the elections hereafter to be held in said precincts, and each of the county courts of the aforesaid counties of Cumberland, Bracken, Livingston and Boone, shall appoint a clerk and judges to attend elections in the said precincts, in like manner as the law directs in similar cases; and on failure of the courts aforesaid to make such appointments, the sheriffs shall fill such vacancies; the said judges, clerks and sheriffs shall be entitled to the same allowance for their services, to be paid in like manner, and subject to the same penalties, as is directed by law in similar cases.

Sheriffs, when and where to meet to compare polls. Sec. 6. *Be it further enacted*, That the sheriffs attending the elections at their respective court-houses and precincts aforesaid, shall meet at their respective court-houses on the Saturday next after each election, and shall then and there compare the polls of the candidates



and give certificates as the law directs to the person or persons elected in their respective counties. 1807.

Sec. 7. *Be it further enacted*, That all elections in future within the election precinct known by the name of the Eagle creek precinct, within the county of Pendleton, shall be held at the house of William Barnes, within the County and precinct aforesaid; that every qualified elector who may now or shall hereafter reside within one mile of the ridge road, and to the eastward thereof, leading from Lexington to Cincinnati, and within the county aforesaid, shall be entitled to vote at the said election precinct. Pendleton election precinct altered.

This act shall commence and be in force from and after its passage.

CHAPTER CCCCXC.

*An ACT for the benefit of Peter G. Voorhies.*

Approved February 20, 1808.

He had, under the direction of the governor, summoned a court martial for the trial of the adjutant-general—had furnished the executive with details for carrying into effect the orders of the president of the United States for detaching 5212 men, and had performed sundry other services at the request of the executive; for which he was by this act allowed 60 dollars.

CHAPTER CCCCXCI.

*An ACT relative to the Jefferson Seminary.*

Approved February 20, 1808.

WHEREAS it is represented to the legislature, that apprehensions are entertained that the lands or other property heretofore vested by acts of the legislature in the trustees of the academy or seminary of learning instituted for the county of Jefferson, are or may be lapsed or forfeited by reason of the said trustees not having acted in conformity with the laws heretofore in force relative to the said institution; and that the said institution requires the further aid of the legislature for its advancement: therefore, Preamble,

Sec. 1. *Be it enacted by the general assembly*, That all and every lapse or forfeiture of any lands heretofore allowed, granted or allotted by acts of the legislature, for the use of the academy or seminary of learning instituted for the county of Jefferson, which may have been incurred by or from any cause whatsoever, shall be, Forfeiture repealed.

1807. and the same is hereby relinquished and waved by the commonwealth; and the said lands and other property are hereby vested in full right and sovereignty in Alexander S. Bullitt, Richard C. Anderson, Robert Breckenridge, Abraham Hite, Abner Fields, Gabriel J. Johnson, Samuel Oldham, John Bates, David L. Ward, and James Ferguson, who are hereby appointed trustees of the said academy or seminary of learning, in lieu of those heretofore appointed, for the use and benefit of the said institution, any supposed lapse or forfeiture of the said lands to the contrary notwithstanding.

Trustees appointed and incorporated.

Style.

Powers & duty.

Sec. 2. *Be it further enacted*, That the said trustees, and their successors are hereby constituted a body politic in law and fact, with perpetual succession, by the name and style of the trustees of the Jefferson seminary of learning; as such may sue or be sued, implead or be impleaded in any matter or thing relating to the said institution; and in general may have, occupy and possess, for the benefit of said institution, lands or other property derived from donation, purchase or devise, receive subscriptions, &c. fix on and establish a permanent seat for said academy; direct what branches of literature may be taught thereat, contract with suitable teachers, and in general to do all acts for the promotion of said institution, subject to the laws heretofore in force.

This act shall commence and be in force from and to commence. after the passage thereof.

#### CHAPTER CCCXCII.

##### *An ACT concerning the Marriage of Polly Pringle.*

Approved February 26, 1808.

This act authorized her to sue in Henry county for a divorce from her husband, Alexander Pringle, and to obtain it on a jury's finding that he had abandoned her for three years, left her very much involved in debt, and not sufficient estate to pay it; and that in all probability he had left the United States.

#### CHAPTER CCCXCIII.

##### *An ACT to improve the Navigation of Salt River.*

Approved February 20, 1808.

*BE it enacted by the general assembly*, That all the rules and regulations contained in an act entitled "an act to improve and keep open the navigation of the Beech

fork of Salt river, and other water courses," approved December 26, 1805, shall be, and they are hereby extended so far up Salt river as the mouth of Crooked creek; and the regulations and provisions of the said act shall be as obligatory as if Crooked creek had originally been named as the head of the navigation of the said river.

1807.

This act shall be in force from its passage.

#### CHAPTER CCCCXCIV.

*An ACT to amend an act entitled "an act authorising John Pope to erect a Bridge across the Kentucky River."*

Approved February 20, 1808.

This act merely allowed him two years longer to erect his bridge across Kentucky river.

*Vide Chap. 291, of this Vol.*

#### CHAPTER CCCCXCV.

*An ACT for the relief of William Garrard and others.*

Approved February 20, 1808.

They had been called out, and served in a detachment of the militia, William Garrard as quarter master, James G. Spires as adjutant, Bland W. Ballard as quarter master serjeant, and George Wilcox as brigade inspector; and the secretary at war had refused to allow their claims, owing, as this act says, to there being no such officers known in the regular army. Wherefore, this act allowed them a compensation.

#### CHAPTER CCCCXCVI.

*An ACT for the benefit of William Littell and Thomas Long.*

Approved February 20, 1808.

Littell had been judge advocate, and Long provost martial, at the trial of the adjutant general. This act allowed them compensation for their services.

#### CHAPTER CCCCXCVII.

*An ACT authorising a sale of the Lands of William Merrimee, deceased, for the payment of his Debts.*

Approved February 20, 1808.

He had directed land to be sold by his executors for this purpose; but his will having been lost, this act appointed commissioners to sell it on six months credit.

1807.

## CHAPTER CCCXCXVIII.

*An ACT concerning the settlement of the public accounts of John Logan, deceased, late Treasurer of this Commonwealth.*

Approved February 22, 1808.

WHEREAS by the report of a joint committee from the senate and house of representatives, appointed to settle the public accounts of John Logan, deceased, late treasurer of this commonwealth, it appears that nine thousand fifty-four dollars thirty-three cents and five mills is due from the estate of said John Logan, deceased, of which one thousand three hundred and thirty-seven dollars forty-five cents are doubtful, the warrants to that amount being noticed by the books as paid, but the warrants cannot be now produced; moreover it is represented that the said late treasurer had not given bond and security, and the administrators are desirous of being placed in a situation in which they may with safety pay such balance as may be due: for remedy whereof,

Auditor to institute a suit against administrators.

How brought to trial.

Shall be tried at the first term.

Execution on a part of the judgment suspended.

Right of rectifying mistakes reserved.

Sec. 1. *Be it enacted by the general assembly,* That it shall be the duty of the auditor of public accounts, in the name of the commonwealth, to institute an action on the case against the administrator and administratrix of the said John Logan, deceased; and it shall be the duty of the attorney-general, at the first term after the writ shall be executed, to file a declaration in open court, and shall forthwith, without going to the rules, put the suit to trial, either on issue or writ of enquiry, as the case may be, and thereupon the trial shall be had at the first term, and judgment entered accordingly, with interest from the first day of February 1808, until paid: *Provided, however,* that the auditor shall endorse and cause a suspension of the actual collection of the said one thousand three hundred and thirty-seven dollars and forty-five cents, until the further direction of the legislature: *And provided also,* that nothing in obtaining the said judgment shall prevent a chancellor or a future legislature from giving just relief from any mistakes which shall be discovered.

And whereas it appears by the report of the joint committee appointed to settle the public accounts of the late treasurer, with the administrators of the estate of the said treasurer, that sundry warrants, amounting to

one thousand three hundred and thirty-seven dollars and forty-five cents, with which the late treasurer has credited himself, as appears by his book and his weekly report to the auditor, but have not been produced to the committee on the settlement, and are supposed to be lost or mislaid, and as it is possible that said warrants may have fallen into the hands of some person that may present them at the treasury for payment, to the injury of the estate of the said deceased treasurer: therefore,

1807.

Sec. 2. *Be it enacted*, That a certified copy of the list of said warrants, as reported by said committee, shall be furnished to the treasurer, whose duty it shall be to pay due attention to it, and compare any warrant presented to him for payment with said list; and if any warrant corresponding with said list, in date, number, amount and the name of the person or officer to whom it is payable, he shall carefully note down the name of the person offering such warrant, and shall give such information to the administrators of the estate of said treasurer at any time when required.

List of lost warrants to be kept by treasurer, & compared with those produced for payment.

This act shall be in force from its passage.

#### CHAPTER CCCCXCIX.

*An ACT to amend the several acts relative to the Town of Louisville.*

Approved February 22, 1808.

WHEREAS it is represented to the present general assembly, that the several laws heretofore passed relative to the town of Louisville, are inadequate to the purposes intended thereby, and require amendment: therefore,

Sec. 1. *Be it enacted by the general assembly*, That in every case in which the trustees of the town of Louisville are by any law now in force or by this act authorised to pass by-laws for the regulation of said town, the said trustees are hereby authorised to enforce a compliance with the same, by imposing penalties or fines on the breach thereof not exceeding five pounds, which said fines or penalties imposed by any by-laws as aforesaid, shall be recoverable before any justice of the peace for the county of Jefferson, in the name and at the suit of the trustees of Louisville against the person or persons violating any by-law as aforesaid, with cost as in

Trustees to enforce execution of by-laws under penalties.

Penalty not to exceed 5 pounds.

How recovered.

1807.

Penalties, how  
collected & ap-  
propriated.

Appeal allow-  
ed.

To cause a re-  
survey of lots,  
&c. to be made.

Platt thereof to  
be made out.

Power and duty  
of circuit court.

Trustees to fix  
corner stones,  
&c.

Expense at-  
tending these  
regulations how  
paid.

other cases of that amount, and any justice of the peace of said county is hereby invested with ample and complete jurisdiction to hear and determine the same and award execution therefor; which said penalties or fines so recovered shall be paid by the officer receiving the same to the treasurer to the said board of trustees, to be subject to the appropriation and disposal of the said trustees of said town, in any manner they shall deem conducive to the interest of said town: *Provided, however*, that an appeal to the next county court for the county of Jefferson shall be allowed as in other cases of the like amount.

Sec. 2. *Be it further enacted*, That the trustees of said town of Louisville, or a majority of them, or their successors in office, shall be, and are hereby authorised to employ some good surveyor to survey, under the superintendence of the said trustees, the land whereon the said town is established, and to make out a correct plan or platt of said town, and return the same to the clerk's office of the circuit court for the county of Jefferson, whereupon the said court shall, at the first term after the return of the platt or plan aforesaid, make and enter up an order that the platt or plan so returned shall be confirmed and established as the platt or plan of said town, by which the streets, lots, &c. shall from hereafter be regulated and adjusted, unless good cause be shewn to the contrary at the next term of the said circuit court, which order shall be published in the Louisville Gazette six weeks before the last mentioned term of the said court, and if no good cause be shewn to the contrary, the said court shall proceed to confirm and establish the said platt or plan of said town, and the said platt or plan of said town, when confirmed and established by the said circuit court, and recorded in the clerk's office thereof, shall forever hereafter be deemed and taken to be the true and genuine plan or platt of said town, by which the precincts of the same, the streets and lots thereof shall be regulated and adjusted; and the said trustees are hereby authorised to fix and establish such corner stones or other land marks to perpetuate the arrangements of said town, as they deem expedient; the expense thereof and of the survey aforesaid, shall be defrayed out of any money subject to the appropriation or disposal of said trustees.

Sec. 3. *Be it further enacted*, That all and every privilege or right heretofore granted or confirmed by any law now in force, to the persons residing on the half-acre lots in said town, shall be, and are hereby vested in, and confirmed to all and every person or persons residing within the precincts of the said town, on any other lots or divisions of land within the precincts of said town, or any way annexed to the said town.

1807.

Privileges extended to those residing on any lots in the said town.

And whereas the ponds of stagnant water within the precincts of said town, which are justly considered by a former act as public nuisances, lie on lots which are the property of private individuals, and in many instances cannot be effectually drained without being conducted through private lots; and whereas no man's property can be taken or applied to public use without the consent of his representatives, and without just compensation being previously made to him:

Recital.

Sec. 4. *Be it further enacted*, That if at any time the trustees of said town, or a majority of them, shall deem it expedient to drain off, fill up, or otherwise remove any pond of stagnant water lying on any lot of private property in said town, the said trustees shall appoint three fit persons to view the said pond, and ascertain and fix upon some plan for draining off, filling up, or removing said pond of water from the lot aforesaid; and the three persons appointed shall report to the county court of the county of Jefferson, at the term next after they have viewed the same, the situation of the said pond, and the plan proposed for draining off, filling up, or removing the same; upon the return of the said report, the court shall order summonses to be issued to the proprietors and tenants of the lot or lots on which the pond proposed to be drained off, filled up, or removed, shall be, or through which any drain may be proposed to pass, if they be found in the county, if not, the report of said viewers shall be published three weeks in the Louisville Gazette, upon the return of such summons, or upon such advertisement being made, as the case may be, if any proprietor or tenant so desire, the said court shall order the clerk to issue a writ, in the nature of a writ of *ad quod damnum*, to be directed to the sheriff, commanding him to summon and empanel twelve able and discreet freeholders of the vicinage, no ways related to any of the said parties, to meet at some place conve-

To cause the ponds to be filled up or drained off.

Notice to be given to the owners of certain lots.

Or published.

Writs may be awarded.

1807.

Oath of the jury.

Duty of the court upon the return of the writ.

nient to the lot from which the pond aforesaid is proposed to be drained off, filled up, or removed, on some day to be fixed by said court, and inserted in said writ, of which notice shall be given by the sheriff to the proprietors or tenants as aforesaid, if they were not present in court at the time the order aforesaid was made, which freeholders shall be charged by the sheriff, on oath, impartially and to the best of their skill and judgment, to view the lot from which the pond is proposed to be drained off, filled up, or removed, and say of what value the said pond is to the proprietor of the lot aforesaid, and what damage the proprietor will sustain by the pond thereon being drained off, filled up, or otherwise removed, and also the damage which such proprietor of lots may sustain by reason of the water of said pond being conveyed through the same, which inquest, sealed by the jurors, together with the writ, shall be returned to the county court of said county, and recorded; the said court shall direct the said pond to be drained off, filled up, or removed, as the case may be, and direct the trustees to pay to the proprietors of the lots aforesaid the sums respectively assessed by the inquest of the said jurors, and upon the trustees paying or tendering to the proprietors of the lots aforesaid, the sums so respectively assessed, it shall be lawful for the trustees to have the said pond drained off, filled up, or removed, agreeably to the proceedings aforesaid, and forever to keep the same dry and filled up, and all expenses attending the execution of this section of this act, shall be defrayed out of any monies subject to the appropriation or disposal of said trustees, or out of any money which may be voluntarily subscribed for the purpose aforesaid, which subscriptions the trustees are hereby authorised to receive.

Sec. 5. *Be it further enacted*, That the trustees, or a majority of them, are hereby authorised to assess and levy all and every sum or sums which they are authorised to levy or assess, by way of taxation, by any law now in force, in and upon all or any property, real or personal, within the precincts of said town, whether the said property, real or personal, belong to a person residing or not residing within the limits of said town, and upon non-payment of the taxes so imposed, the same proceedings shall be had, by distress or sale, as is prescribed by

Trustees to levy a tax.

What property subject to taxation.

How collected.



# XVI. YEAR OF THE COMMONWEALTH.

497

the laws now in force relative to said town, or where the said laws do not provide for the case, the same proceedings shall be had by the town commissioner, and collected by distress, sale, &c. as are prescribed to the commissioner and sheriff by the general laws providing for the collection of the state revenue.

1807.

And whereas doubts are entertained whether the town collector can proceed to collect, distress and sell for the arrearages of town tax for the years 1804, 1805, and 1806, since the expirations of those years respectively :

Recital:

Sec. 6. *Be it further enacted*, That the town collector shall proceed to collect, distrain and sell for the arrearages of the town tax for those years respectively, in the same manner as he was authorised to do by any law now in force relative to said town during the years respectively, and hereafter the town collector shall proceed to collect, distrain and sell for any arrearage of town tax hereafter existing, in the same manner and under the same regulations as sheriffs are directed to collect arrearages of the state revenue, by the general laws relating thereto.

Collector may distrain for arrearages.

Further duty of collector.

Sec. 7. *Be it further enacted*, That the trustees for the town of Louisville be, and are hereby empowered and authorised to pass by-laws for the prevention and removal of nuisances or obstructions in the streets of said town, for the prevention of fire, and for that purpose may, by by-laws, organise and embody a fire company, and prescribe rules and regulations, to be obeyed by said company, in cases of fire occurring in any part of said town ; also by-laws for the more effectual collection and appropriation of the taxes authorised to be assessed or levied by any law now in force relative to said town, and in general all by-laws which may be deemed necessary by the trustees for the better regulation of the police in the said town : *Provided*, that the said by-laws shall not be inconsistent with the constitution or laws of the United States or of this state.

Organise fire companies.

Sec. 8. *Be it further enacted*, That whenever the town collector, authorised by this or any other act, shall sell property, real or personal, in the collection of the town tax, he shall convey the same in the same manner sheriffs are directed to convey property sold under the revenue laws.

Collector to convey estate sold by him,

1807. *Trustees may tax shows, theatrical exhibitions, &c.* Sec. 9. *Be it further enacted*, That the said trustees of the said town of Louisville are authorised to impose a tax not exceeding ten dollars for each performance on every exhibition or performance of plays, farces, shows, or other curiosity, to be paid by the said exhibitor or performer before he shall be permitted to perform or exhibit as aforesaid.

*Repealing clause.* Sec. 10. All acts and parts of acts inconsistent or incompatible with all or any of the provisions of this act, shall be, and they are hereby repealed.

This act shall be in force from and after its passage.

#### CHAPTER D.

#### *An ACT to amend the several acts concerning Chancery Proceedings.*

Approved February 23, 1808.

See the preface to Chap. 273, of Vol. I.

*Subpoena not to issue until bill is filed.* SECTION 1. *BE it enacted by the general assembly*, That a subpoena in chancery shall not be issued until the bill shall be filed.

*Proceedings on a subpoena returned executed.* Sec. 2. *And be it further enacted*, That a subpoena in chancery being returned executed, the suit shall remain three months for answer, after which the bill (if not answered) may be taken as confessed, as though an attachment had been returned executed: *Provided, however*, that nothing in this act shall be so construed as to prohibit an attachment from being sued out as heretofore, where the complaining party shall deem it necessary.

*Certain laws repealed.* Sec. 3. *And be it further enacted*, That so much of every act or acts as require a copy of the bill to accompany the subpoena, or to accompany a notice of application for an injunction, shall be, and the same are hereby repealed.

*Cases in which writs of error shall not be sustained.* Sec. 4. *And be it further enacted*, That an appeal or writ of error shall not be sustained to stay or reverse an order or decree of discharge or dissolution of an injunction, but instead thereof one or more of the judges of the court of appeals, on inspecting the records, may, by his or their order, reinstate the injunction, provided he or they shall be of opinion the same was improperly discharged or dissolved.

This act shall be in force from and after its passage.

## CHAPTER DL

1807.

*An ACT to prevent the future migration of Free Negroes and Mulattoes to this State.*

Approved February 23, 1808.

WHEREAS it is represented to the present general assembly, that a very serious evil is likely to be produced by the emigration of emancipated slaves from different parts of the Union to this state, and that many of the states have passed laws compelling slaves when emancipated by citizens of their respective states to remove out of such state within a given time : for remedy whereof,

Sec. 1. *Be it enacted by the general assembly,* That from and after the first day of May next, it shall not be lawful for any free negro or mulatto to migrate or be brought into this state from any territory or state within the United States, or elsewhere ; and if any free negro or mulatto shall migrate or be transported or brought into this state, and remain herein for the term of thirty days, in contravention of this act, he, she or they shall be liable to arrestation, and to be proceeded against in the following manner, to wit : any citizen of this commonwealth, having knowledge that any such free negro or mulatto is within any county of this state, contrary to this act, shall or may arrest the said free negro or mulatto, and bring him or her before some justice of the peace of his county, to be dealt with agreeably to law, or he may apply to a justice of the peace for said county, who, upon information of the same, is required to issue his warrant to cause the said free negro or mulatto to be brought before him or some other justice for said county, to be dealt with agreeably to law, directed to the sheriff or some constable of his county, or any other person whom the said justice may choose to designate, whose duty it shall be to execute the said warrant, and bring the said free negro or mulatto before the said justice, or some other of said county.

Free negroes & mulattoes, their migration to this state prohibited.

How proceeded against.

Duty of justice.

Sec. 2. *Be it further enacted,* That if the justice of the peace, before whom any free negro or mulatto as aforesaid, shall be brought as aforesaid, upon examination of the said free negro or mulatto, and other testimony, shall be of opinion that the said free negro or mulatto has migrated or been transported or brought in-

Further duties of the justice.

Testimony.

|                                                               |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |
|---------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 1807.                                                         | to this state and continued herein in contravention of this act, it shall be the duty of the said justice to require                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |
| Recognizance.                                                 | the said free negro or mulatto to enter into a recognizance, with one or more good securities, in the sum of                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |
| Penalty.                                                      | five hundred dollars, payable to the governor for the time being and his successors, conditioned for the personal appearance of the said free negro or mulatto at                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |
| Condition.                                                    | the next county court to be held for his county, and that he or she will abide by and perform the order made therein by the said county court; and on failure                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |
| Shall commit on failure to execute such recognizance.         | to give or enter into such recognizance, the said magistrate shall commit the said free negro or mulatto to the jail of his county, there to remain until the county court.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |
| Powers & duty of the county court.                            | Sec. 3. <i>Be it further enacted</i> , That if the county court before whom any such negro or mulatto shall be brought as aforesaid, shall, after examination and trial, be of opinion that the said free negro or mulatto has migrated or been brought into this state, and continued herein contrary to this act, they shall direct the said free negro or mulatto to enter into a recognizance, with one or more good securities, in the sum of five hundred dollars, payable to the governor and his successors, conditioned that the said free negro or mulatto will depart and remove without the limits of this state within twenty days from the date, and never more return within the limits of the same; and upon failure to give such recognizance, the said county court shall make an order, to be executed by the sheriff, for the immediate sale of the said free negro or mulatto for and during the term of one year, to the highest bidder, and the sheriff shall proceed to sell the said free negro or mulatto as aforesaid, to the highest bidder, at one year's credit, taking bond and security of the purchaser, for the payment of the said purchase money to the justices of the county court, and in cases where the said bond shall not be complied with, or either of the recognizances aforesaid be forfeited, suits shall be brought thereon, and recoveries had in the circuit court of said county, and all monies so recovered shall be one half for the person prosecuting, the other half, deducting expenses of prosecution, in aid of the county levy. |
| May take a recognizance.                                      |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |
| On failure to enter into such recognizance, may order a sale. |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |
| Purchaser to give bond & security.                            |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |
| How recoveries had on bonds & recognizances.                  |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |
| In case of repetition of the offence.                         | Sec. 4. <i>Be it further enacted</i> , That the same proceedings may be had against any such free negro or                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |

mulatto, as often as he, she or they shall be found within any county of this state after the expiration of the time assigned by the county court for his or her departure out of this state.

1807.

This act shall be in force from its passage.

### CHAPTER DII.

*An ACT regulating Civil Proceedings in certain cases.*

Approved February 23, 1808.

*Vide Vol. I, Chap. 264, and the Notes.*

WHEREAS it is represented to the general assembly, that from the present state of the law and practice of courts, suitors are unjustly vexed by a delay of justice and by heavy costs expended in the prosecution of their lawful demands : for remedy whereof,

Sec. 1. *Be it enacted by the general assembly,* That any person or persons having cause of action, whether founded in tort or contract, may file his, her or their declaration with the clerk of any court having jurisdiction thereof, and on the declaration being filed with the clerk, it shall be the duty of the clerk to copy the same, and at the request of the party to issue a writ suited to the cause of action, to be endorsed as heretofore ; and the officer to whom the same shall be directed, upon receipt of the writ and a copy of the declaration, shall proceed to execute the same in the manner directed by law, and shall at the time of serving the writ deliver the copy of the declaration to the defendant or defendants, or either of them, and the officer having executed the writ agreeably to the command thereof, shall make return thereupon as heretofore, and shall moreover note the day on which the same was executed, and that a copy of the declaration was delivered at the time of executing the writ.

Declaration may be filed at the time of suing out the writ.

Copy of declaration to be delivered to defendant.

Sheriff's return.

Sec. 2. *And be it further enacted,* That the clerks of the respective courts, whenever it shall appear to them, from the return of the officer, that the writ in any case where declaration has been filed agreeably to this act, has been served thirty days before the return day thereof, and that a copy of the declaration was delivered at the time of serving the writ, shall put the cause on the issue docket at the end of the issues that may have been made upon the rule docket or continued in court. The

180%.  
 Subpoenas. clerk shall issue summonses for witnesses, at the request of either party, to attend on the trial of the cause; those causes shall be called in turn, and on being called the defendant or defendants may demur, or plead to the same either in abatement or bar, and the pleadings shall be made up in court; whereupon the court shall proceed to the trial thereof, unless good cause shall be shewn to the court for a continuance, and the court in their discretion may decide at whose costs the suit shall be continued.

Pleadings.

Trials.

Continuance.

Sec. 3. *And be it further enacted*, That the clerks in making out the issue or court dockets shall arrange and apportion the suits at law as heretofore, but shall put all chancery causes at the end of the common law issues in the order they were set for hearing; and the courts shall proceed to take up the business in order as it stands on the docket, and go through the same: *Provided always*, that any chancery cause may be taken up by consent of parties when the court may have leisure to hear the same, any law, custom or usage to the contrary notwithstanding.

Chancery causes, where placed.

May be taken up by consent.

And whereas heavy complaints are made by the good people of this state relative to clerks' fees and fee-bills being illegal and exorbitant: for remedy whereof,

Sec. 4. *Be it enacted*, That if any clerk within this state shall at any time hereafter presume to charge, ask, demand, receive or issue fee-bills for any fee or fees to which he is not lawfully and justly entitled for services actually rendered, every clerk so offending shall forfeit and pay to the person or persons injured, any sum not exceeding ten dollars and the amount of the fee or fees improperly charged, with costs, to be recovered by motion before the court of which he is clerk, on ten days previous notice being given in writing, and the court shall give judgment and award execution as on other motions.

Penalty on the clerks charging fees improperly.

How recovered.

Sec. 5. *And be it further enacted*, That a complete record shall not be made out by the clerk of any court of superior or inferior jurisdiction in any cause whatsoever, unless the title or boundaries of land may have been ascertained or settled by the judgment or decree of the court in such cause, nor shall any clerk charge for a complete record in any case not expressly required by law: *Provided*, that this act shall not be so construed as to prevent any

Complete records not to be made up except in land cases.

Proviso.

## XVI. YEAR OF THE COMMONWEALTH.

506

clerk from making a complete record in any cause whatsoever, at the request of either party, or any other person, at the proper cost and charge of the person making application for such complete record.

1807.

Sec. 6. *And be it further enacted*, That on setting aside an office judgment, the cause shall be put at the end of the common law issues, and shall be taken up and tried in order before the chancery causes.

Office judgments upon being set aside, shall be tried before chancery causes.

Sec. 7. *Be it further enacted*, That the sheriffs shall hereafter return to the clerks' offices of the respective courts, the original bail bonds taken on the service of process, instead of copies thereof.

This act to be in force from the passage thereof.

### CHAPTER DIII.

#### *An ACT concerning Justices of the Peace.*

Approved February 23, 1808.

*Vide* Vol. I, Chap. 23, and the Notes.

WHEREAS it is represented to the general assembly, that doubts have existed respecting the jurisdiction of justices of the peace, in cases where the original claims amounted to five pounds or upwards, and have been reduced below that sum, by credits fairly endorsed upon the written evidence of such claims: for remedy whereof,

*Be it enacted by the general assembly*, That it shall and may be lawful for any justice of the peace in this commonwealth to issue his warrant and give judgment on any bond, bill, note or open account, where the said bond, bill, note or open account was or shall hereafter be given or contracted for the sum of five pounds or upwards, payable in money or property, and shall be reduced below that sum by credits fairly endorsed on any of the above named vouchers, and issue his execution accordingly.

This act shall commence and be in force from and after the passage thereof.

1807.

## CHAPTER DIV.

*An ACT further to amend the act entitled "an act establishing Circuit Courts."*

Approved February 23, 1808.

See Chap. 43, of this Vol.

SECTION 1. *BE it enacted by the general assembly,* That the several counties within this commonwealth shall be so arranged as to form ten districts for the purpose of allotting to each district one circuit judge; and that the terms of the several circuit courts shall commence and be held in every year, agreeably to the provisions of this act.

Greenup, Lewis,  
is, Fleming,  
Mason, Bracken.

I. The first district shall be composed of the counties of Greenup, Lewis, Fleming, Mason and Bracken. The terms of the circuit courts for the county of Greenup, shall commence on the third Monday in March, July and November, and shall continue one week each; for the county of Lewis, on the fourth Monday in March, July and November, and continue one week each; for the county of Fleming, on the first Monday in March, June and September, and continue two weeks each; for the county of Mason, on the second Monday in May, September and December, and continue three weeks each; for the county of Bracken, on the first Monday in April, July and November, and continue one week each.

Floyd, Montgomery,  
Bourbon, Harrison,  
Nicholas.

II. The second district shall be composed of the counties of Floyd, Montgomery, Bourbon, Harrison and Nicholas. The terms of the circuit courts for the county of Floyd, shall commence on the fourth Monday in March, June and September, and shall continue one week each; for the county of Montgomery, on the first Monday in April, July and October, and continue two weeks each; for the county of Bourbon, on the first Monday in May, August and November, and continue three weeks each; for the county of Harrison, on the second Monday in February, June and September, and continue two weeks each; for the county of Nicholas, on the third Monday in April, July and October, and continue one week each.

Fayette, Scott,  
Pendleton,  
Campbell and  
Boone.

III. The third district shall be composed of the counties of Fayette, Scott, Pendleton, Campbell, and Boone. The terms of the circuit courts for the county of Fayette



shall commence on the second Monday in March, June and September, and shall continue four weeks each; for the county of Scott on the third Monday in April, July and October, and continue two weeks each; for the county of Pendleton on the second Monday in May, August and November, and continue one week each; for the county of Campbell on the third Monday in May, August and November, and continue one week each; for the county of Boone on the fourth Monday in May, August and November, and continue one week each.

1807.

IV. The fourth district shall be composed of the counties of Woodford, Franklin, Gallatin, Henry, and Shelby. The terms of the circuit courts for the county of Woodford shall commence on the first Monday in April, September and December, and shall continue two weeks each; for the county of Franklin on the third Monday in March, July and October, and continue two weeks each; for the county of Gallatin on the second Monday in March, July and October, and continue one week each; for the county of Henry on the first Monday in March, July and October, and continue one week each; for the county of Shelby on the third Monday in February, June and September, and continue two weeks each.

Woodford, Gal-  
latin, Franklin,  
Henry, Shelby.

V. The fifth district shall be composed of the counties of Jefferson, Bullitt, Hardin, Nelson and Washington. The terms of the circuit courts for the county of Jefferson shall commence on the second Monday in February, May and November, and shall continue three weeks each; for the county of Bullitt on the first Monday in March, June and October, and continue one week each; for the county of Hardin on the second Monday in March, June and September, to set one week at the March and June terms and two weeks at the September term; for the county of Nelson on the third Monday in March, the third in June, and the second in October, and continue three weeks each term; for the county of Washington on the second Monday in April and August, and first Monday in November, and continue one week at the April and November terms, and two weeks at the August term.

Jefferson, Bul-  
litt, Hardin,  
Nelson, Wash-  
ington.

VI. The sixth district shall be composed of the counties of Breckenridge, Ohio, Muhlenberg, Henderson and Hopkins. The terms of the circuit courts for the

Breckenridge,  
Ohio, Muhlen-  
berg, Hender-  
son, Hopkins.

1807.

county of Breckenridge shall commence on the third Monday in April, July and October, and shall continue one week each; for the county of Ohio on the second Monday in April, July and October, and continue one week each; for the county of Muhlenberg on the third Monday in March, June and September, and continue one week each; for the county of Henderson on the first Monday in April, July and October, and continue one week each; for the county of Hopkins on the fourth Monday in March, June and September, and continue one week each.

Christian, Logan, Livingston  
Warren, Barren.

VII. The seventh district shall be composed of the counties of Livingston, Christian, Logan, Warren and Barren. The terms of the circuit courts for the county of Livingston shall commence on the first Monday in March, June and September, and shall continue one week each; for the county of Christian on the second Monday in April, July and October, and continue one week each; for the county of Logan on the third Monday in April, July and October, and continue two weeks each; for the county of Warren on the first Monday in February, May and October, and continue two weeks each; for the county of Barren on the fourth Monday in March, June and September, and continue one week each.

Cumberland, Green, Adair, Wayne, Pulaski.

VIII. The eighth district shall be composed of the counties of Cumberland, Green, Adair, Wayne and Pulaski. The terms of the circuit courts for the county of Cumberland shall commence on the second Monday in March, June and September, and shall continue one week each; for the county of Green on the fourth Monday in March, June and September, and continue two weeks each; for the county of Adair on the first Monday in March, June and September, and continue one week each; for the county of Wayne on the third Monday in April, July and October, and continue one week each; for the county of Pulaski on the fourth Monday in April, July and October, and continue one week each.

Mercer, Casey, Lincoln, Garrard, Knox.

IX. The ninth district shall be composed of the counties of Mercer, Casey, Lincoln, Garrard and Knox. The terms of the circuit courts for the county of Mercer shall commence on the first Monday in March, June and September, and shall continue two weeks each;

# XVI. YEAR OF THE COMMONWEALTH.

507

1807.

for the county of Casey on the first Monday in February, May and August, and continue one week each; for the county of Lincoln on the third Monday in February, May and August, and continue three weeks each; for the county of Garrard on the third Monday in March, June and September, and continue two weeks each; for the county of Knox on the second Monday in February, May and August, and continue one week each.

X. The tenth district shall be composed of the counties of Madison, Estill, Clay, Clarke and Jessamine. The terms of the circuit courts for the county of Madison, shall commence on the first Monday in March, June and September, and shall continue two weeks each; for the county of Estill on the third Monday in March, June and September, and continue one week each; for the county of Clay on the second Monday in April, July and October, and continue one week each; for the county of Clarke on the fourth Monday in March, June and September, and continue two weeks each; for the county of Jessamine on the third Monday in April, July and October, and continue two weeks each.

Madison, Estill,  
Clay, Clarke,  
Jessamine.

Sec. 2. *Be it further enacted*, That hereafter the judges shall make their allotments by districts, and it shall be the duty of each judge respectively to attend the circuit courts of the district to which he shall be allotted. And, unless in cases where the judges shall otherwise allot themselves, the following shall be observed as the regulation in this particular, viz. the honorable William M'Clung to the first district; the honorable John Allen to the second district; the honorable John Monroe to the third district; the honorable Cary L. Clarke to the fourth district; the honorable Stephen Ormsby to the fifth district; the honorable Henry P. Broadnax to the sixth district; the honorable William Wallace to the seventh district; the honorable Allen M. Wakefield to the eighth district; the honorable William L. Kelly to the ninth district; and the honorable Samuel M'Dowell to the tenth district. And in case of a new appointment of a judge, in the room of any of the circuit judges, he shall take the place of his predecessor.

Allotment.

Sec. 3. *Be it further enacted*, That all process and recognizances entered into or made returnable to the present circuit courts, shall be considered as legally returnable to the next terms after the commencement of this act.

## DECEMBER SESSION,

1807.

Sec. 4. *And be it further enacted,* That the county courts in each county shall commence on the same day above directed for each circuit, in any other month except those months in which the circuit courts are directed to be held by this act.

Sec. 5. That the sessions of the general court shall continue three weeks each term.

Sec. 6. So much of all and every act as contravenes the provisions of this act, shall be, and the same is hereby repealed.

This act shall commence and be in force from and after the first day of May next.

---

 CHAPTER DV.

*An ACT concerning certain Attornies.*

Approved February 23, 1808.

*Vide* Vol. I, Chap. 245, and the Notes.

WHEREAS it is represented to this general assembly, that a law now exists in the Indiana territory, which prohibits all persons who are not citizens of said territory, from practising as attornies or counsellors at law in the courts within the same, except such attornies as may have heretofore obtained license to practice in said territory : therefore,

*Be it enacted by the general assembly,* That until the said law now in force in the said territory shall be repealed, no counsellor or attorney who is a citizen of said territory, and who does not become a citizen of this state, obtain a license according to law and reside herein twelve months, shall be permitted to practise as an attorney or counsellor at law, in any of the courts within this commonwealth. And if any attorney or counsellor at law shall presume to practise contrary to this act, he shall forfeit and pay the sum of one hundred dollars for every such offence, to be recovered by action of debt or indictment, before any court having jurisdiction thereof, one moiety to the use of the informer, or person suing for the same, the other moiety to the commonwealth : *Provided,* that this law shall not extend to any attorney or counsellor at law who may have been heretofore authorised to practise in any court within this state.

This act to be in force from its passage.

## CHAPTER DVI.

1807.

*An ACT authorising necessary repairs to be made to the State-House, and for paying John A. Mitchell for sundry repairs already done.*

Approved February 23, 1808.

WHEREAS sundry repairs are necessary to be done to the state-house: wherefore,

Sec. 1. *Be it enacted by the general assembly,* That Samuel Taylor, Daniel Weisiger and John A. Mitchell, be, and they or any two of them are hereby authorised to contract for, superintend, and procure the necessary repairs to be done to the state-house, and report the same, with the expenses thereof, to the next general assembly: *Provided,* that the commissioners shall not contract for the appropriation of more than five hundred dollars to the purposes aforesaid, and that the repairing the roof shall be the first object of their attention.

Sec. 2. *And be it further enacted,* That two hundred and nineteen dollars and thirty cents, be allowed to John A. Mitchell, in full for the repairs done to the state-house and yard during the last year, including the materials furnished, for which sum, the auditor shall issue his warrant, which shall be paid out of any money in the treasury not otherwise appropriated.

This act shall be in force from its passage.

## CHAPTER DVII.

*An ACT for the conditional Divorce of John and Parthenia Meigs.*

Approved February 23, 1808.

This act authorised Parthenia Meigs to sue, in Clarke county, for a divorce from her husband, John Meigs; and to obtain it on a jury's finding that he had deserted her for four years, and had never returned, and that before he departed, he did beat, wound, bruise and ill-treat her, without any good cause.

## CHAPTER DVIII.

*An for the relief of John Kay.*

Approved February 23, 1808.

Jonathan Rossell had obtained a certificate from the Green river commissioners for 200 acres of land, and caused it to be surveyed. He then withdrew the certificate, and entered it on other land. After this, he sold the survey so made, and assigned it to Ephraim Porter, and Ephraim Porter, ignorant of the fraud, assigned it to John Kay, who paid 80 dollars into the treasury on it. This act permitted him to receive the money out of the treasury again.

1807.

## CHAPTER DIX.

*An ACT to amend the law concerning the Turnpike and Wilderness Road.*

Approved February 23, 1808.

**Former law repealed.** SECTION 1. *BE it enacted by the general assembly,* That so much of the act passed December 1805, entitled "an act to amend and reduce into one the several acts concerning the turnpike and wilderness road," as vests any power whatever in the county court of Lincoln, Madison and Knox relative to the said turnpike and road, shall be, and the same is hereby repealed; and that all the powers by the before recited act vested in the said county courts, shall be, and the same is hereby vested in four directors, any three of whom may act; who shall annually in the month of March be appointed by the governor, one residing in each of the counties of Garrard, Madison, Lincoln and Knox.

**Powers vested in directors.** Sec. 2. And that the said road shall be kept in good repair under the direction of said directors, who shall have power to lay the same off in as many precincts as they may deem proper, and appoint to each precinct a commissioner, who for misconduct or neglect of duty may by the directors be removed and another appointed in his place; and the said directors shall make an allowance to the commissioners they may appoint, for their services in superintending the hands who may be employed in working on said road, so that such allowance shall not exceed one dollar and fifty cents per day for each day he may be actually employed; and if at any time the directors shall be of opinion that the road can be amended by removing it upon other ground, they shall have power so to do: *Provided*, that part so removed do not exceed the distance of three miles.

**Now appointed.** Directors to keep the road in repair.

**To appoint a commissioner for each district.** His compensation.

**May alter the road.**

**Toll to be paid to the directors.** Sec. 3. *And be it further enacted,* That the turnpike keeper shall quarterly pay into the hands of said directors the money by him received for toll and take their receipt for the same, and shall also at the same time deliver to them a fair statement of the money by him received each day during that quarter, having first made oath before some justice of the peace that it contained a just and true account of money by him received each day, as shall be stated therein.

**When settlement of tolls to be made.** Sec. 4. *And be it further enacted,* That the said directors shall annually in the month of December settle

with the keeper of the turnpike, and a copy of such settlement, signed by two of them, delivered to said keeper; which copy, together with a statement of the money by him received for toll, and a copy of the directors' receipt for money to them paid, shall be by the said keeper transmitted to the governor within one month after such settlement; and the said directors shall annually in the month of February report to the governor the amount of money expended in repairing the said road, stating in such report distinctly the several charges, and the balance of money, if any, remaining in their hands unexpended, shall be paid into the public treasury.

1807.

Directors shall annually report to the governor the expenditure.

Sec. 5. *And be it further enacted*, That the turnpike keepers shall settle with said directors their unsettled accounts; and the directors shall have power to call on the governor for the returns made by them, or either of them; and the directors shall have power to demand payment from said keepers, of such balances as may be due on such settlement, and on refusal may, and are hereby empowered to commence suit or suits in any court having jurisdiction, on their bond or bonds, and the money, when collected, appropriated to the use of keeping said road in repair.

Directors to settle with the turnpike keepers.

Sec. 6. *Be it further enacted*, That John Patrick, William Goodloe, and James Anderson, be appointed commissioners for the purpose of causing a bridge to be built across Rockcastle river, where the road from Madison court-house to the Cumberland Gap crosses the said river (near to the house of James Kinhead); the said commissioners shall direct the manner of building the said bridge, and the materials of which it shall be constituted; and the commissioners after giving at least one month's notice, by advertising the same at the court-house door of Madison, Lincoln, Garrard and Knox, and in the Kentucky Gazette, of the time and place of letting the same; and shall at the time and place proceed to let the building the bridge, at which time, place, &c. the commissioners shall exhibit a draft or plan of the bridge, and the terms of payment for the executing the work; and should the building of the said bridge not be undertaken on that day, the commissioners may at their discretion appoint some other day and place for the letting the said bridge; and to enable the said commissioners to comply with the contract made

Commissioners appointed to superintend the erection of a bridge.

Shall give notice, & where.

1807.

with the undertaker of the bridge, the directors are hereby required on application of the commissioners of the bridge, to draw on the turnpike keeper for the monies remaining in his hands at the last settlement, together with one fourth part of the profit of said turnpike for one year, at such times as they may deem proper : *Provided*, so much thereof shall be necessary for building said bridge.

Commissioners  
to take bond  
from the un-  
dertaker,

Sec. 7: *And be it further enacted*, That the commissioners shall take bond and security to be approved of by them, payable to the governor for the time being and his successors in office, from the person undertaking the building the said bridge ; which bond shall be lodged in the office of the circuit court for Madison; on which suit may be brought in said court for breach of the conditions therein, or either of them.

This act shall be in force from and after the passage thereof.

#### CHAPTER DX.

*An ACT for the benefit of William Rively and Levi Stewart, and for other purposes.*

Approved February 23, 1808.

They had undertaken the opening of a road to Big Sandy, under the act of 1804, (*Vide* Chap. 163 of this Vol.) But the high water having injured the bridge since they had finished it, it could not be received by the county court of Montgomery, according to contract. In consideration of which, this act allowed them a further time of three months to finish it.

It also permitted them to raise 300 dollars by subscription, in addition to the sum already subscribed, and authorized the county court of Montgomery to appoint four commissioners to raise money by subscription to keep the road in repair.

#### CHAPTER DXI.

*An ACT for the relief of Daniel Stillwell.*

Approved February 23, 1808.

His wife, Delilah, having abandoned his bed and board, taken up with James Rofs, and continued to live in open, avowed adultery with him, this act authorized him to sue her in Hardin court for a divorce, and to obtain it on a jury's finding the foregoing facts.

#### CHAPTER DXII.

*An ACT to authorise the County Court of Washington County to lay their Levy.*

Approved February 23, 1808.

From sickness and other unavoidable accidents they had failed to lay their levy in the proper month. This act authorized it to be laid in March next.



## CHAPTER DXIII.

1802.

*An ACT establishing certain Inspections of Tobacco, Hemp and Flour, and concerning the navigation of Eagle Creek.*

Approved February 23, 1808.

*Vide Vol. I, Chap. 58, and the notes.*

SECTION 1. *BE it enacted by the general assembly,* That an inspection of tobacco, hemp and flour shall be, and are hereby established on the lands of Nathaniel Saunders, on Eagle creek, within the county of Gallatin, to be called Saunders's inspection; that an inspection of tobacco shall and are hereby established on the lands of Thomas Kennedy, near the junction of Licking with the Ohio river, in the county of Campbell, to be known by the name of Kennedy's inspection; that an inspection of tobacco be and the same is hereby established on the lands of Thomas Posey, on the Ohio river, within the county of Campbell, to be called and known by the name of Posey's inspection; that an inspection of tobacco, hemp and flour be and the same is hereby established on the lands of Henry Hieronimous, on the Kentucky river, within the county of Clarke, to be called and known by the name of Hieronimous's inspection.

Sec. 2. *Be it further enacted,* That the owners and inspectors of the several ware-houses hereby established, shall be governed by the same rules and regulations, in every respect, which are now by law imposed on the several inspections established in this commonwealth.

Sec. 3. *Be it further enacted,* That from Saunders's inspection, established by this act, on Eagle creek, to its confluence with the Kentucky river, shall be and are hereby declared a navigable stream and public highway for the passage of boats and other water craft.

Sec. 4. *Be it further enacted,* That if any person or persons shall hereafter raise, erect or fix any fish-dam, bar, or other obstruction to the navigation of the said creek, within the limits aforesaid, he or they so offending shall forfeit and pay the sum of five dollars for every month during which the said obstructions shall continue.

Sec. 5. *Be it further enacted,* That after the first day of August next it shall be the duty of all and every person or persons who may, before the passage of this act, have erected any fish-dam or other obstruction as aforesaid, on the said creek, immediately to remove the same.

## DECEMBER SESSION,

1807.

from the channel of the said creek, on pain of forfeiting five dollars for each month's continuance of the same; which penalties may be recovered before any justice of the peace of Gallatin county.

This act shall be in force from its passage.

## CHAPTER DXIV.

*An ACT supplementary to the act establishing sundry Inspections.*

Approved February 23, 1808.

See the preface to Chap. 58, of Vol. 1.

*BE it enacted by the general assembly, That an inspection of tobacco, hemp, flour and pork be and the same is hereby established in Shippingsport, in Jefferson county, on the land of Nicholas Berthoud, to be called and known by the name of Berthoud's inspection; an inspection of hemp, flour and tobacco, on Green river, near the mouth of Robertson's creek, on the lands of Diskin Tibbs, to be called and known by the name of Tibbs's inspection; an inspection of hemp, flour and tobacco on the lands of Jesse Williams, on Red river, in Logan county, to be called and known by the name of Williams's inspection; an inspection of hemp, flour and tobacco on the south side of Cumberland river, at the mouth of Beaver creek, on the lower side of the creek, to be called and known by the name of the Beaver creek inspection; an inspection of hemp, flour and tobacco on the north side of Cumberland river, at the mouth of Marrowbone creek, on the lands of Roberts and Jones, to be called and known by the name of Marrowbone inspection; an inspection of hemp and flour in the town of Henderson and county of Henderson, on the lot of Philip Barbour, to be called and known by the name of Henderson inspection; to be governed and ruled by the laws of this commonwealth concerning inspections.*

This act shall be in force from its passage.

## CHAPTER DXV.

*An ACT for the relief of William Augustine Washington and others.*

Approved February 23, 1808.

This act relieved against the irregular issuing of a patent in the name of the assignor of plats and certificates, after the assignment, and after the death of the assignor.

XVI. YEAR OF THE COMMONWEALTH.

515

CHAPTER DXVI.

1807.

*An ACT for the relief of James Littell.*

Approved February 23, 1808.

He stood indicted for murder in Pendleton county, and on account of unusual prejudices, party spirit and animosities existing there, this act permitted a change of venue to Clarke.

CHAPTER DXVII.

*An ACT to amend an act authorising Commissioners to sell part of the Land of which John Elliott died seized and possessed.*

Approved February 23, 1808.

The commissioners under that act had sold 100 acres of land, and there-with purchased a negro woman; but several suits having been commenced against the heirs, this act directs the other hundred acres to be sold for money to defray the expenses of those suits, instead of the purchase of a negro woman, as that act directed.

CHAPTER DXVIII.

*An ACT for the relief of Mary Pendegrast.*

Approved February 23, 1808.

Garrit Pendegrast having deserted his wife for six or seven years, contributed nothing to the support of herself or child, and lived in adultery with another woman; this act authorised her to sue him for a divorce, in Jefferson county, and to obtain it on establishing the above facts by the verdict of a jury.

CHAPTER DXIX.

*An ACT declaring Convicts in the Penitentiary House to be competent Witnesses for and against each other, and for other purposes.*

Approved February 23, 1808.

WHEREAS it is represented to the present general assembly, that difficulties have arisen in the trial and examination of convicts in the penitentiary house, for crimes and capital offences which they may commit during their continuance in confinement, and for which, by law, trials as in other like cases are directed to be had, owing, from the nature of their situation, to the difficulty of obtaining sufficient and competent testimony to prove and ascertain their guilt: for remedy whereof,

Sec. 1. *Be it enacted by the general assembly,* That on the trial or trials of a convict or convicts in the penitentiary house, for a crime or crimes, the convicts in the said penitentiary house, and each of them, shall be com-

1807.

petent witnesses in such trial or trials, any law to the contrary notwithstanding: *Provided, however,* that nothing in this act shall be so construed as to render a competent witness any person convicted of perjury.

*Sec. 2. Be it further enacted,* That the agent of the penitentiary house shall be; and he is hereby authorised to furnish tobacco for the use of the convicts in the penitentiary house, to be paid for out of the proceeds of their labor, and to be distributed to them by the keeper in such proportions as he may think right for the benefit of their health.

This act shall be in force from and after its passage.

#### CHAPTER DXX.

*An ACT for the relief of Eleanor Beelor, Peggy Jett, and Sarah Robinson.*

Approved February 23, 1808.

Nathaniel Beelor having by dissipation wasted his own estate and that of his wife, fled from the commonwealth, with an avowed intention of never living with his wife more, or of returning to the United States, and had been gone three years.

James Jett treated his wife cruelly, and then abandoned her for the space of six years, and for five years, or more, had expressed an intention not to return to her.

Jacob Robinson had abandoned his wife for five years, and during that time had not contributed any thing towards her comfortable subsistence, and was living in adultery with another woman.

Wherefore this act authorised each of their wives to sue for a divorce, the first in Jefferson, the second in Franklin, and the third in Livingston county, and each to obtain it on establishing the above facts respectively, by the verdict of a jury; with a proviso as to Mrs. Robinson, that it should appear to the jury that she had not conducted herself towards her husband so as to give cause for his abandoning her.

#### CHAPTER DXXI.

*An ACT for the benefit of William Butler, James Dunn, and John Herod.*

Approved February 23, 1808.

This act authorised the auditor to issue some small warrants in their favor, for military services rendered in 1787 and 1793.

#### CHAPTER DXXII.

*An ACT for the benefit of Jacob Dooley, and others.*

Approved February 23, 1808.

He had served as lieutenant with a serjeant and 15 privates, on the frontiers of Clarke, in 1795. This act gave them a compensation.

## CHAPTER DXXIII.

1807.

*An ACT to amend the act entitled "an act concerning the Militia."*

Approved February 24, 1808.

See the observations on Chap. 17, of Vol. I, and Chap. 420, of this Vol.

SECTION 1. *BE it enacted by the general assembly,* That there shall be four company musters in each year, to be appointed at the discretion of the commanding officers of companies, as to time and place, within the months of June, July, August and September. The commanding officers of companies, after their military exercise for the day shall be over in the month of June, shall proceed to make their annual company return agreeable to forms which shall be furnished by the commanding officers of battalions, as shall hereafter be provided. Company returns shall be made to commandants of battalions on or before the tenth day of July in each year. The commandants of battalions shall make from the returns of the companies composing their battalions, a return of the strength of their battalions, which they shall deliver to the adjutants of their respective regiments on or before the first day of August in each year, who shall immediately proceed to make therefrom a regimental return, and lay the same before the commanding officer of regiments for his examination and signature on or before the tenth day of August in each year; the adjutants shall without delay forward the returns of regiments to the brigade inspector; in case of there being no inspector, to the officer commanding the brigade; on or before the first day of September in each year, who shall therefrom make two brigade returns, and lay the same before the brigadier or officer commanding the brigade on or before the tenth day of September in each year, for his examination and signature; one of which returns the inspectors of brigades shall forward to the commanding officer of the division to whom they belong on or before the tenth day of October in each year. The major generals shall direct their aids to cause two fair division returns to be made, and lay the same before him for his examination and signature on or before the first day of November in each year, one of which returns he shall forward to the office of the adjutant general of this state on or before the last day of November in

Four company  
musters in each  
year.

Months.

When to make  
company returns.

Battalion re-  
turns.

Regimental re-  
turns.

Brigade returns.

Division re-  
turns.

1807.  
Adjutant general returns.

each year. The adjutant general shall make from the several division returns, a return of the whole strength of the militia of this state, which he shall lay before the commander in chief of this state on or before the tenth day of December in each year, a duplicate of which return he shall without delay forward to the president of the United States.

Commandants of regiments to modify and arrange the subordinate divisions of their regiments.

Sec. 2. *Be it further enacted,* That the field officers of their respective regiments are hereby authorised to form, alter or modify the boundaries of battalions and companies within their said regiments, in such manner as they or a majority of them shall deem most proper.

Notice to privates of musters.

Every commanding officer of a company shall cause a written notice immediately to be given to every person subject to perform militia duty, who shall remove into the bounds of his command after the first day of April in each year, as well as to all persons coming to the age of eighteen, subject to militia duty, designating in such written notice the particular time and place where the company, battalion or regimental musters have been directed to be held; every person thus removing and notified, and who are subject to perform militia duty, failing to comply with such notification, shall be subject to the same fines which other militia men are.

Certain privates subject to fine.

Delinquent commandants of companies to be reported to court.

Sec. 3. *Be it further enacted,* That where the commanding officers of companies shall fail to lay the returns of their delinquents before the adjutants, by the time required by law, or where the adjutant may fail to deliver the same to the judge advocate five days before the setting of the regimental court for assessment of fines, it shall be lawful for the adjutant or judge advocate to lay the same before the court on the last Monday in November in such year, for their adjudication.

Resignation, to whom made.

Sec. 4. *Be it further enacted,* That the resignation of all commissioned officers shall be made in the following manner, to wit: all company and staff officers of regiments shall resign to the commanding officers of regiments; regimental, field and brigade staff officers to the commanding officers of brigades; brigadier generals and division staff to the commanding officers of divisions; and major generals and the adjutant general to the commander in chief of this state; and when any such commanding officer of a brigade or a division shall receive the resignation of any officer made to him as aforesaid,

he shall certify the same without delay to the governor, <sup>1807.</sup> in order that such vacancy may be supplied. When any nomination of company officers are made to the governor according to law to fill vacancies which may happen, it shall be the duty of commanding officers of regiments from which such nominations are made to insert the name of the person whose place the nomination is intended to fill, designating the cause of such vacancy, whether by death, promotion, resignation, removal, or otherwise. <sup>Vacancies how filled.</sup>

Sec. 5. *Be it further enacted,* That no compensation shall hereafter be made to any brigade inspector until he shall produce an account of the services rendered, together with his brigadier's certificate of a faithful discharge of every duty assigned him for the year, which account and certificate shall be laid before the governor for his approval, after which the auditor of public accounts shall draw a warrant on the treasurer for the payment thereof accordingly. <sup>Regulations respecting the compensation to brigade inspector.</sup>

Sec. 6. *Be it further enacted,* That the adjutant general shall keep his office in the state-house, in some room not appropriated to other purposes, and which shall be assigned him by the governor; he shall keep a fair record of all orders which he shall from time to time receive from the commander in chief of the militia of this state, of all annual returns made to him, of the strength of the militia, and shall perform such other duties as are enjoined on him by the laws of this state, and of the United States; he shall furnish blank printed forms of annual returns for divisions, brigades, regiments, battalions and companies; and the public printer is hereby authorised and required to furnish as many printed blank annual returns as will give to each major general, brigadier general, lieutenant colonel commandant, brigade inspector, and major, one copy each, which the adjutant general shall forward without delay. It shall be the duty of commanding officers of battalions to furnish manuscript copies of the company returns to their company officers, in order that formal returns be made according to law. It shall be the duty of the adjutant general to give his personal attendance one day in each week in his office aforesaid, unless the governor shall be of opinion that his services are not materially wanted, in which case he shall obtain the con- <sup>Adjutant general shall keep his office in the state-house.</sup> <sup>His duty.</sup> <sup>Distribution of forms for returns.</sup> <sup>Adjutant general to give his personal attendance.</sup>

1807.

Postage on certain military communication to be paid by the state.

Penalty on adjutant general failing to perform his duty.

Compensation to adjutant general.

Provido.

Absent officers, at what time their offices vacated.

Regulations where officers labor under certain maladies.

sent of the governor in writing, designating the time which he may be permitted to be absent from his office; but may be sooner called, if in the opinion of the governor the public service require it. All letters or packages coming to or sent by the adjutant general relative to the duties of his office by post, shall be paid for by the state, on the same being certified by the governor that they relate to the duties of his office; which the governor shall certify to the auditor of public accounts for payment accordingly. If the adjutant general fail to comply with the requisitions of this act, he shall forfeit and pay any sum not exceeding fifty dollars nor less than twenty dollars, to be assessed by a brigade court martial, to be convened by order of the governor: *Provided*, that the adjutant general shall have ten days notice of the time and place of holding such court martial, also a copy of such charges as may be exhibited against him. The adjutant general shall receive, as a compensation for the duties imposed on him by the laws of this state and of the United States, one hundred and fifty dollars per annum, in lieu of the present salary, for which the auditor of public accounts is hereby required to issue his warrant on the treasurer for payment accordingly: *Provided however*, that he shall produce the governor's certificate that the duties of his office shall have been faithfully performed.

Sec. 7. *Be it further enacted*, That if any commissioned officer shall absent himself from the duties of his command for the space of twelve months, unless he be employed on public business, it shall be deemed a removal, and measures shall be immediately taken thereafter by the governor, major general, brigadier general, or commandant of regiments, as the case may be, for supplying such vacancy; and if any commissioned officer in the militia of this state shall labor under any apparent incurable bodily infirmities or mental derangements, the governor, major general, brigadier general or commanding officers of regiments, as the case may be, shall order a court of enquiry on testimony or personal observation, report to the officer ordering such court, that the officer thus charged does actually labor under such bodily infirmities or mental derangements to such extent as to disqualify such officer from a faithful discharge of his duties under the militia laws of this com-



monwealth, and if the officer ordering the court of enquiry shall approve the report of said court, the office shall thereafter be considered vacated, and the governor, major general, brigadier general or commanding officer of regiments, as the case may be, shall take proper measures for filling such vacancies accordingly.

1807.

Sec. 8. *Be it further enacted*, That where it shall appear to the governor, either by returns made to the office of adjutant general, or the certificate of commanding officers of brigades, that there are within the bounds of his command four troops of cavalry, the governor shall at his discretion organise the same into squadrons, and appoint an officer to command each squadron thus organised. The captains of each troop of horse thus organised, shall exercise their respective troops in the months of June, July, August and September in each year, as in cases of infantry of the line. The commanding officers of squadrons shall convene their squadrons twice in each year at some of the musters of the battalions and regiments of the brigade, which may be designated by the commanding officer of the brigade; officers commanding troops of cavalry, shall make their annual returns at the same times which are required of officers of the same grade in the line; officers commanding squadrons of cavalry shall make a return of the strength and condition of his command to the inspector of the brigade at the time required of commandants of regiments, in order that the inspector may be enabled to complete his brigade return as is required by law. The commanding officers of squadrons shall designate some convenient place within the bounds of his command, on the last Monday in November in each year, for holding a squadron court for the assessment of fines, which court shall be composed of at least two captains and five subalterns, which shall be governed by the same laws and regulations as regimental infantry courts are; all fines levied by the said court shall be collected in the same manner as other militia fines, and applied to the uses of the squadron for any expenses that may necessarily occur therein.

Cavalry, how organised.

Exercise of cavalry.

Returns of cavalry.

Squadron courts

Fines, how collected &amp; applied.

Appeals.

Sec. 9. *Be it further enacted*, That all persons who may conceive themselves aggrieved by the decision of any court of assessments, who shall make the affidavit required and lodge the same according to law, shall have

1807. the collection of the fine stayed until the succeeding court shall decide on such appeal. The judge advocate, before he acts as such, shall take the following oath or affirmation, to be administered by the president of such court, to wit: "I, A. B. do solemnly swear (or affirm, as the case may be) that I will faithfully and to the best of my knowledge and ability perform the duties imposed on me by virtue of my office, and that I will not disclose the opinion of this court martial, or that of any member thereof, where secrecy may be required, unless called on in the due course of law to give evidence."
- Oath of judge advocate. The judge advocates of every general, division or brigade court martial which may be instituted under the authority aforesaid, shall be allowed the sum of two dollars per day by the said court, which shall be certified by the president thereof; the provost attending such court shall be allowed one dollar per day, to be certified as aforesaid, and the auditor of public accounts shall issue his warrant on the treasurer, for payment out of any monies in the treasury not otherwise appropriated.
- His salary. Compensation to provost.
- Power and duty of certain courts martial. Sec. 10. *Be it further enacted*, That where any court martial, whether general, division, brigade or regimental, which may be ordered for the trial of any commissioned officer, for a failure in the due execution of any of the provisions of the militia laws of this commonwealth, shall find such officer guilty of any or all the charges which may be preferred against him without a sufficient excuse under the laws aforesaid, such officers shall be cashiered, nor shall any other punishment be imposed on such officer in any military point of view.
- Fines, how collected. Sec. 11. *And be it further enacted*, That where any person subject to militia duty, shall, after being fined by any court for the assessment of fines, remove into the bounds of another regiment, or into any of the counties of this state, it shall be lawful for the commanding officer of the regiment where the fine was imposed, to send a certified copy of such fine into the county where such delinquent shall have removed to, and put into the hands of the sheriff of such county, the certified copy; and the sheriff shall proceed to collect and account for the same in the manner that other fines are accounted for by law.
- Certain persons exempt from bearing arms. Sec. 12. *Be it further enacted*, That all persons above the age of eighteen, and under the age of forty-five,

## XVI. YEAR OF THE COMMONWEALTH.

523

who conscientiously scruple to bear arms, shall not be compelled to do so, but shall pay an equivalent for personal services, which shall be equal to the fine now imposed on every delinquent for neglect of duty in similar cases, and in cases of invasion or insurrection, where such persons are called into service, they shall be permitted to find an able bodied substitute in lieu of personal service.

1807.

Sec. 13. *Be it further enacted,* That any non-commissioned officer or private who shall appear on parade at any muster without being armed as the law directs, may be fined any sum not exceeding fifty cents, at the discretion of a court for the assessment of fines, any law to the contrary notwithstanding. All fines inflicted by regimental court martial for the assessment of fines, the judge advocate shall make out three fair copies thereof, and present them to the commandant of the regiment, whose duty it shall be to furnish the paymaster with one, the collector of said fines with another, and keep one himself; which fines shall be paid and accounted for as heretofore. So much of every act or parts of acts as requires the judge advocate to transmit to the brigadier general a copy of fines, shall be, and the same is hereby repealed.

Penalty for appearing on parade without arms.

List of fines, how distributed.

Former provision repealed.

Sec. 14. *Be it further enacted,* That every non-commissioned officer or private shall, when called upon to perform a tour of duty, perform the same by himself or a substitute who shall be approved of by the officer appointed to command such non-commissioned or private.

Tour of duty to be performed personally or by substitute.

Sec. 15. *Be it further enacted,* That no commandant of a company shall return any delinquent non-commissioned officer or private who shall, from the knowledge of the captain or any subaltern of the company, fail to attend his several musters from illness, absence on business from his county, or other lawful impediment to a discharge of his duty.

Cases of absence,

Sec. 16. *And be it further enacted,* That if a sufficient number of officers do not attend to form a court martial at the time appointed for holding the same, any one or more who does attend, may adjourn from day to day, and send for the absentees until a sufficient number shall attend to constitute a court. And it shall be the duty of the secretary of state, and he is hereby required from

Where a sufficient number of officers do not attend, those present may adjourn.

1807. time to time to furnish the adjutant general with a list of all general, staff and field officers who may be commissioned by the governor.

Secretary to  
furnish judge  
advocate with  
the names of  
staff officers.

Sec. 17. *Be it further enacted*, That so much of the act passed at the last session of the general assembly concerning the militia, as comes within the purview of this act, shall be, and the same is hereby repealed; and that the public printer shall furnish the secretary of state with twelve hundred copies of this act, to be distributed among the officers of militia in such manner as the governor may direct.

#### CHAPTER DXXIV.

*An ACT to amend an act concerning Witnesses, and prescribing the manner of obtaining and executing Commissions for taking their Depositions in certain cases.*

Approved February 24, 1808.

WHEREAS some of the provisions of the act of the sixth day of February, one thousand seven hundred and ninety-eight, entitled "an act concerning witnesses, and prescribing the manner of obtaining and executing commissions for taking depositions in certain cases," have been found inconvenient, and frequently create great delay in the administration of justice: to remedy which,

Courts may award commissions. To whom directed. Sec. 1. *Be it enacted by the general assembly*, That whenever any civil cause shall be depending in any court of this commonwealth, the court before whom the same may be depending, may, upon affidavit being made of the materiality of any witness out of this commonwealth, award a commission for taking the deposition of such witness, which commission may be directed to the mayor of any city, to a notary public, to any two justices of the peace, to any two persons authorised to administer an oath out of court, or to two or more persons by name, who may be agreed upon by the parties litigant, to be executed by any two or more of them.

What shall be deemed a sufficient authentication. Sec. 2. The certificate or attestation of the person or persons taking such deposition, purporting that he or they is or are of the description aforesaid, shall be evidence of the qualification of such person or persons to take such deposition.

Clerks may issue commissions in certain cases. Sec. 3. Whenever a party to a cause as aforesaid, shall in vacation file with the clerk an affidavit of the

materiality of a witness out of this commonwealth, the clerk shall issue a commission, directed as above mentioned, for taking the deposition of such witness: *Provided, however*, that nothing herein contained shall be construed to authorise the clerk to issue a commission for taking depositions in a suit in chancery, after the same is set for hearing, unless there be an order of court giving leave to take depositions.

1807.

Sec. 4. No notice to the opposite party shall be necessary for procuring a commission in either of the cases aforesaid; but nothing herein contained shall be construed to authorise the reading of any such deposition on the trial of such cause, without notice having been given to the opposite party of the time and place of taking such deposition, as heretofore required by law.

No notice necessary in procuring commissions.

Sec. 5. Depositions may be taken within this commonwealth before any two justices of the peace.

This act shall be in force from its passage.

#### CHAPTER DXXV.

*An ACT allowing further time to establish Public Schools in this Commonwealth.*

Approved February 24, 1808.

*BE it enacted by the general assembly*, That no forfeiture or reversion of any lands acquired to trustees under an act entitled "an act to establish and endow certain academies," approved December the 22d, 1798, shall take place on account of the trustees of the several counties in this commonwealth not causing a public school to be established in their respective counties within ten years from the passage of said act; but the further time of ten years shall be and the same is hereby given to the trustees of the several counties to comply with the said provisions of the act aforesaid.

This act shall be in force from its passage.

#### CHAPTER DXXVI.

*An ACT giving further time to return Platts and Certificates of Survey to the Register's Office.*

Approved February 24, 1808.

*Vide* Vol. I, Chap. 38, and the Notes.

*BE it enacted by the general assembly*, That the further time of two years from and after the first day of

1807.

March next, shall be allowed to all owners of platts and certificates of survey to return the same into the register's office : *Provided*, the said platts and certificates of survey shall be made within the time limited by law.

This act shall be in force from the passage.

#### CHAPTER DXXVII.

*An ACT to repeal the law authorising the Classing of Tobacco in this Commonwealth.*

Approved February 24, 1808.

WHEREAS it is deemed inexpedient to allow the classing of tobacco, agreeably to the provisions of the second section of the act entitled "an act for establishing sundry inspections of flur, hemp and tobacco," approved December 19th, 1804 : therefore,

Sec. 1. *Be it enacted by the general assembly*, That the second section of the before recited act, which directs the inspectors to arrange the tobacco in two classes, shall be, and the same is hereby repealed.

Sec. 2. *And be it further enacted*, That no tobacco hereafter refused by inspectors shall be by them burnt, but that the owner of all such refused tobacco may dispose of the same as he may deem proper, any law or laws to the contrary notwithstanding. But this section shall not be so construed as to authorise the re-packing of any refused tobacco, after picking, in casks or hogsheads of crop or transfer tobacco, under the penalty of ten dollars, recoverable by warrant before a justice of the peace, for the use of the person suing for the same.

This act shall commence and be in force from and after the first day of June next.

#### CHAPTER DXXVIII.

*An ACT directing the mode of choosing Electors to vote for a President and Vice-President of the United States.*

Approved February 24, 1808.

SECTION 1. *BE it enacted by the general assembly*, That this state shall be divided into two districts, for the purpose of electing electors to choose a president and vice-

State laid off  
into two dis-  
tricts.

president of the United States, in the following manner, to wit : all that part of the state lying on the north side of the Kentucky river, and the counties of Madison, Garrard, Mercer, Shelby, Henry, and that part of the counties of Franklin, Gallatin and Estill, lying on the south side of said river, shall compose one district, and be known by the name of the Northern District. All that part of the state lying on the south side of the Kentucky river, except the counties of Madison, Garrard, Mercer, Shelby, Henry, and that part of the counties of Franklin, Gallatin, and Estill, lying on the south side of said river, shall compose one other district, and be known by the name of the Southern district.

1807.

Northern dis-  
trict.Southern dis-  
trict.

Sec. 2. *And be it further enacted*, That the qualified voters in this commonwealth, shall meet at their court-houses on the second Monday in November next, and vote for four fit persons who shall be residents of the district, as electors to vote for president and vice-president of the United States. The same rules and regulations shall be observed by the several sheriffs, clerks, judges and voters, as is provided by law, in electing members to the general assembly.

Elections when  
to be held.Elections how  
to be conducted.

Sec. 3. *And be it further enacted*, That the sheriffs in each county shall, on the tenth day, inclusive, after the commencement of the election, meet as follows : those in the northern district, at the court-house of Fayette county, and those in the southern district, at the court-house of Green county, and then and there compare the polls in the same manner, and under the same rules and regulations as are prescribed by law in electing members to congress ; and shall certify under their hands and seals, the persons elected in their several districts ; and it shall be the duty of the sheriff of the county where the polls are compared, to transmit such certificate of election to the secretary of state, within five days after such meeting of the sheriffs, under the penalty of five hundred dollars, to be collected by motion in any court having cognizance of the same, ten days previous notice being given, and the secretary, on the receipt of such certificates, shall cause the names of those persons so elected, to be published in the gazette of the public printer.

Votes of N.  
district, where  
compared.Southern in  
Green.

Duty of sheriffs

Penalty.

Duty of secre-  
tary.

Sec. 4. *And be it further enacted*, That the electors so elected at any election under this act, shall meet at the

Electors, when  
and where to  
meet.

1807.  
 Their duty.

Compensation  
 to sheriffs.

Compensation  
 to electors.

state-house in the town of Frankfort, on the first Wednesday in December next, and there vote for a president and vice-president of the United States, and make returns thereof agreeable to the laws of the United States in that case provided ; and the sheriffs, for attending and comparing the polls, under this act, shall be entitled to the same allowances and paid in the same manner as for attending and comparing polls for members of congress ; and each elector shall be allowed two dollars for every twenty-five miles he shall necessarily travel, and two dollars per day while attending in Frankfort as an elector, for which the auditor is hereby directed to issue his warrant on the treasury.

#### CHAPTER DXXIX.

*An ACT providing for the payment of Auditor's Warrants.*

Approved February 24, 1808.

FOR the purpose of supporting public credit, to prevent the inconvenience which a temporary deficiency of money in the treasury might occasion to those who have demands on it,

Sec. 1. *Be it enacted by the general assembly,* That when application shall be made to the treasurer for payment of an auditor's warrant, and he shall not have in his hands a sufficiency of public money for its discharge, he shall endorse thereon the day on which it was so presented, and shall sign it.

Sec. 2. *And be it further enacted,* That the bank of Kentucky shall be and is authorised to receive such warrants, and to pay for the same in specie ; and the amount thereof, with legal interest thereon from the days respectively endorsed on such warrants, shall be paid by the treasurer to the bank, out of any funds that may be in his hands, not otherwise appropriated, when the same shall be applied for.

Sec. 3. *Be it further enacted,* That it shall be the duty of the treasurer, when he may have money in the treasury, to apply at the bank weekly, and take up such warrants as may have been paid by the bank.

This act shall be in force from its passage.



CHAPTER DXXX.

1807.

*An ACT authorising an additional number of Justices of the Peace in certain Counties.*

Approved February 24, 1808.

SECTION 1. *BE it enacted by the general assembly,* That in addition to the number of justices of the peace now allowed by law in the several counties hereinafter mentioned, there shall be allowed the following numbers: For the county of Cumberland, one; for the county of Wayne, three; for the county of Barren, three; for the county of Nicholas, two; for the county of Muhlenberg, two; for the county of Floyd, one; for the county of Clark, one; for the county of Franklin, two; for the county of Bourbon, two, one of whom shall reside in the town of Millersburg; for the county of Jefferson, one, who shall reside in the town of Shippingsport; for the county of Muhlenberg, one; for the county of Pulaski, one.

Sec. 2. *Be it further enacted,* That the number of justices of the peace for Clay county, shall not exceed eleven; for the county of Lewis, not exceeding nine; for the county of Estill, not exceeding eight; for the county of Casey, not exceeding nine; and for the county of Hopkins, not exceeding ten.

This act shall commence and be in force from and after the passage thereof.

CHAPTER DXXXI.

*An ACT to amend an act entitled "an act to reduce into one the several acts concerning the Auditor and Treasurer."*

Approved February 24, 1808.

*Vide Vol. I, Chap. i, and the Notes.*

*BE it enacted by the general assembly,* That whenever the office of treasurer shall hereafter become vacant by death, resignation, or otherwise, during the recess of the general assembly, the governor shall immediately proceed to fill the office of treasurer by the appointment of some person qualified to discharge the duties of said office, who shall, before he enters upon the duties of his office, enter into bond with two or more securities, who shall be approved of by the governor, in the penalty prescribed by law; and the governor shall

1807.

appoint two commissioners to settle the accounts of the deceased, resigned or removed treasurer, where some person on behalf of the said treasurer may attend for the purpose of aiding in such settlement; and the commissioners having made such settlement, shall deliver over the books, papers and money belonging to the treasury to the treasurer so appointed, and take his receipt therefor: a statement of such settlement, together with the receipt of the treasurer so appointed, shall be delivered to the auditor of public accounts, to be by him filed in his office.

This act to be in force from its passage.

#### CHAPTER DXXXII.

*An ACT authorising the Editors of the Louisville Gazette, the Reporter, and Western Citizen, to publish Advertisements.*

Approved February 24, 1808.

This act authorized them to publish all legal advertisements not expressly required to be printed in the paper of the public printer.

#### CHAPTER DXXXIII.

*An ACT directing an examination of certain Entry Books, and for other purposes.*

Approved February 24, 1808.

WHEREAS by a resolution of the general assembly, passed on the 19th day of December, 1801, it was made the duty of the register of the land-office, to transcribe all the entries of land made in Kentucky, commonly called May's books of entries; and whereas the then register copied eight hundred pages of those entries in two books, but died before he finished the copies, and the present register having completed the said copies from the said May's books, in three volumes, containing in all 1059 pages, and it being thought proper by the present legislature to have those copies so taken from said books, compared with the original entry books called May's, by commissioners, to be appointed by the governor, and that the present register ought to receive compensation for copying the said entries: therefore,

Governor to appoint 2 commissioners.

Sec. 1. *Be it enacted by the general assembly, That the governor be, and he is hereby empowered to appoint*

two fit persons as commissioners in behalf of this state, <sup>1807.</sup> who, in the presence of the register, shall compare the copies taken from May's entry books in five volumes, <sup>Their duty.</sup> and make report to the next general assembly, and the said commissioners shall each receive per day, for their <sup>Compensation.</sup> service, one dollar and fifty cents for every day they are necessarily employed in the examination of the said books, out of the public treasury, by warrants from the auditor of public accounts.

Sec. 2. *Be it further enacted,* That the register be, <sup>Register to copy certain entries.</sup> and he is hereby directed to copy in well bound books, the plats and certificates of surveys for lands granted by the state of Virginia, lying in this state.

And whereas it is represented to the present general assembly, that some of those plats and certificates are now so much defaced that accurate copies in many instances cannot be made, unless the register resorts to records of the grants made by the state of Virginia :

Sec. 3. *Be it therefore further enacted,* That the register may, in all cases where the original plats and certificates are so defaced as that true copies cannot be taken, he may, and is hereby directed to resort to the record of the grant : *Provided however,* that in all cases <sup>Contingent duty of the register.</sup> where he has been obliged to resort to the record of grants, he shall note in the margin of the book in which the record of the plats and certificates are transcribed, that it was taken from the book of grants. <sup>Proviso.</sup>

Sec. 4. *Be it further enacted,* That the auditor be, <sup>Compensation to register for copies already made out.</sup> and he is hereby directed to issue a warrant in favor of the register for two hundred dollars in full for his service in copying 1059 pages of entries from May's old books.

This act shall be in force from its passage.

#### CHAPTER DXXXIV.

*An ACT granting Lands to Micah Taul and company, for the erection of Iron-Works.*

Approved February 24, 1808.

This act allowed them to locate not less than 500 nor more than 2000 acres, not to exceed five surveys, to include the iron ore, and to be paid for at the rate of 20 dollars per hundred acres, within four years from the passage of this act ; and if bar iron should not be manufactured at the works within six years from the passage of the act, the land to become subject to the disposition of the legislature, and the price to be forfeited.

1807.

## CHAPTER DXXXV.

*An ACT to incorporate the Madison Hemp Mill Company.*

Approved February 24, 1808.

WHEREAS it is represented to the present general assembly, that a mill has been erected on Silver creek, in Madison county, for the purpose of spinning hemp and flax by machinery conducted by water, at great expense and labor by the proprietors, who from divers causes are unable to carry the same into full effect, and they having solicited an act of incorporation; therefore,

Sec. 1. *Be it enacted by the general assembly, That* William Macbean, Henry Clay, Robert Frazier, and James and David Maccoun, the present proprietors of the Madison hemp mill company, together with such persons as shall hereafter become shareholders in manner herein directed, shall be, and are hereby erected into and made a corporation and body politic by the name, style and title of "The Madison Hemp and Flax Spinning Company," and shall so continue until the first day of January 1820, and by that name are hereby made able and capable in law to have, purchase, receive, possess, enjoy and retain to them and their successors, lands, rents, tenements, hereditaments, goods, chattels and effects, of what kind, nature or quality soever, to an amount not exceeding their capital stock and the profits thereon, and the same to sell, grant, demise, alien or dispose of, to sue and be sued, plead and be impleaded, answer and be answered, defend and be defended, in any court of law or equity, or in any other place whatsoever; and also to make, have and use a common seal, and the same to break, alter and renew at their pleasure; and also to ordain, establish and put in execution such by-laws, ordinances and regulations as shall seem to them necessary and convenient for the government of the said corporation, and which are not contrary to law, and generally to do and execute all and singular the acts, matters and things which to them it shall or may appertain to do; subject nevertheless to the rules, regulations, restrictions and limitations hereinafter prescribed.

Sec. 2. It shall be lawful for any person, copartnership or body politic to subscribe for such or so many

shares as he, she or they may think fit, until the number subscribed, with the sums already expended or engaged by the present proprietors, shall amount to one thousand shares, or twenty-five thousand dollars; reserving, however, to the president and directors, with the assent of a majority of the shareholders, the right to increase the number of shares to fifteen hundred.

1807.

Number limited.

Sec. 3. Each share shall be twenty-five dollars, payable in notes negotiable at the bank of Kentucky or the insurance company of Kentucky at sixty days after date. In case any subscriber shall fail to pay the amount of his note or notes within one month after the same becomes due, his share or shares shall be sold at public auction; and if it should not produce the amount due, the deficiency, with charges, may be recovered of the delinquent by suit. The present proprietors shall be at liberty to subscribe for a number of shares equal to the expenditure they have incurred or become bound for: *Provided nevertheless*, that their several interests in the said company, as now liable, shall remain liable for their debts in the same manner as if this act had not passed.

Price of shares how paid.

What number of shares may be retained by the present company.

Sec. 4. Subscriptions may be received by John Bradford, Alexander Parker and John Postlethwait in Lexington, and Humphrey Jones and Thomas C. Howard in Madison, until the first meeting of the shareholders under this act, a majority of whom shall designate the persons to receive subscriptions.

Who may receive subscriptions for shares.

Sec. 5. The shareholders in the company, or a majority of those present at a meeting, shall annually elect a president and two directors, who shall continue in office one year from the time of election.


President &amp; directors to be appointed.

Sec. 6. The shareholders shall meet for the purpose of electing the first president and directors under this act, at the tavern now kept by John Downing in Lexington, on the second Monday in March next, and on the same day in every year thereafter, at such place as the president and directors then in office shall appoint, of which appointment fourteen days notice shall be given in some Kentucky newspaper. And in case it shall at any time happen that an election of president and directors should not be made at the time required by this act, the said corporation shall not for that cause, be deemed dissolved, but it shall be lawful for the president and directors in office to appoint another day, in such man-

Where elections to be held.

Time to be advertised.

Provisions in case elections should not be held on the day appointed.

1807.  ner as shall have been regulated by the by-laws and ordinances of the said corporation, and the former president and directors shall continue in office until such election is made; and in the event of the death, resignation, or removal from the state of a president or director, his place may be supplied by a new election for the remainder of the year, at a meeting convened for that purpose.
- Vacancies how filled. Sec. 7. The president and directors for the time being shall have power to appoint such managers, mechanics, clerks or servants, as they may think necessary for the conducting of the business of the said corporation, and to allow them such compensation for their services respectively, as they may deem proper, and to require security for the upright discharge of their several functions and trusts, and shall be capable of exercising such other powers and authorities for the well governing and ordering the affairs of the said corporation, as shall be described and determined by the laws and ordinances of the same.
- Power and duty of president & directors. Sec. 8. The president or the two directors shall at any time have the power of calling a meeting of the shareholders, and the president and one director, or two directors in the absence of the president, shall be sufficient to form a board.
- Meeting of the shareholders may be called. Sec. 9. The shares in the said company shall be transferable under such regulations as may be provided by the by-laws of the corporation.
- Shares transferable. Sec. 10. Neither the president and directors, nor any person for them, shall sell any manufactured or other article on a credit, without having good and sufficient security, nor shall they make or pass any promissory note or bond for the payment of money, but shall, for all raw materials purchased, pay immediately in cash, on receipt of the articles, nor shall they trade, buy or deal in any article or articles except hemp, hemp-seed, flax and flax-seed, cotton, and such articles as are necessary for manufacturing the same, and such as may be necessary to support and maintain the persons engaged in the factory.
- Credits prohibited in said company. Sec. 11. The number of votes to which each shareholder may be entitled, shall be according to the number of shares he may hold, in the proportions following, that is to say: for one share and not more than two
- Restrictions as to articles in which the corporation may deal.
- Regulations as to the proportion of votes to shares in the company.

## XVI. YEAR OF THE COMMONWEALTH.

535

shares, one vote ; for every two shares above two and not exceeding ten, one vote ; for every five shares above ten, one vote ; but no person, copartnership or body politic, shall be entitled to a greater number than thirty votes, neither shall any person as proxy, be entitled to more than thirty votes.

1807.

Sec. 12. No compensation shall be made to the president and directors, except at a general meeting of the shareholders.

Compensation to president and directors to be fixed at a general meeting.

Sec. 13. At the annual meetings, the president and directors shall lay before the shareholders a statement of the accounts, and such other information as they may think necessary, when such a dividend of the profits shall be declared as the president shall think adviseable, but in no case shall the capital stock be diminished by such dividend, until the expiration of this act, unless two-thirds in number and amount of the shareholders shall concur, in writing, or by their personal votes, in such diminution.

Dividends.

This act is in force from its passage.

### CHAPTER DXXXVI.

*An ACT for the appropriation of Money.*

Approved February 24, 1808.

The ordinary appropriation bill.

### CHAPTER DXXXVII.

*An ACT to amend the act entitled "an act for opening a Road from Buckley's Ferry, on Kentucky River, to Bairdstown, also a Road from Knox Court-House towards Pulaski Court-House."*

Approved February 23, 1808.

BE it enacted by the general assembly, That the first section of the act entitled "an act for opening a road from Buckley's ferry, on Kentucky river, to Bairdstown, also a road from Knox court-house towards Pulaski court-house," shall be made to read "to intersect the road leading from Delany's ferry to Bairdstown, at or near Kincheloe's settlement."

This act shall be in force from its passage.

## DECEMBER SESSION,

## CHAPTER DXXXVIII.

*An ACT authorising John James and others to locate and survey Land for Iron-Works.*

Approved February 17, 1808.

WHEREAS it is represented to the present general assembly, that John James, William Ray and Henry James are desirous to erect iron-works in the county of Pulaski, which when completed would be of advantage to the public in general: therefore,

Sec. 1. *Be it enacted by the general assembly,* That the said John James, William Ray and Henry James may, for the purposes aforesaid, locate and survey any number of acres of waste and unappropriated land in the county of Pulaski, not less than five hundred nor more than two thousand acres.

Sec. 2. *And be it further enacted,* That the said John James, William Ray and Henry James be allowed twelve months to locate and survey the said land, and shall within six years pay into the treasury of this commonwealth, twenty dollars per hundred acres for each hundred acres so located and surveyed, and on their producing to the register the auditor's quietus for the full amount of money due for the land so taken up, the register shall issue his grant to them for the same, but not otherwise: *Provided nevertheless,* the said John James, William Ray and Henry James shall not include an actual settlement now made, although the same may not be legally appropriated according to law, in any of the lands hereby authorised to be taken up: *Provided also,* that if the said John James, William Ray and Henry James should not, within five years from the passage of this act, complete their works, so as to make iron or castings, that the land so located and surveyed shall revert to the commonwealth.

Sec. 3. *And be it further enacted,* That nothing herein contained shall be so construed as to authorise the said John James and others to appropriate, under the provisions of this act, any of the land acquired by the treaty of Tellico.

This act shall commence and be in force from and after the passage thereof.



# APPENDIX

TO

## VOLUME III.

---

### ACTS OF VIRGINIA,

ESTABLISHING AND REGULATING TOWNS, FERRIES, ACADEMIES AND INSPECTIONS, IN THE DISTRICT OF KENTUCKY.

---

### TOWNS.

OCTOBER, 1778, CHAN. REV. PAGE 87.

*An ACT to empower the Freeholders of the several Towns not incorporated to supply the vacancies of the Trustees and Directors thereof.*

SECTION 1. **B**E it enacted by the general assembly, That upon the death, removal out of the country, or other legal disability of any one or more of the trustees and directors of the several towns within this state not incorporated, such vacancy, so often as the same shall happen, shall hereafter be supplied in manner following, that is to say: the surviving trustees and directors, or one of them, shall give immediate notice of such vacancy to the sheriff of the county wherein such town may be, who, within twenty days thereafter, shall notify the same to the freeholders of the said town, in such manner as he may think best, requiring them to appear at a certain place therein, and on a certain day, not less than ten days thence next following, then and there to elect a trustee in the room of the one so dying, removing or disabled. The sheriff shall attend and take the poll at such election, entering the names of the persons voted for in a distinct column, and the name of every freeholder giving his vote under the name of the person he votes for; and when no freeholders appear to vote, the sheriff shall close the poll, and return the same to the next court to be held for his county up-

on oath, certifying the name of the person elected, to be by the clerk recorded:

Sec. 2. Every person elected in manner directed by this act, shall to all intents and purposes be a trustee of the town for which he was chosen:

Sec. 3. So much or all acts of assembly as are contrary to the purview and meaning of this act, are hereby repealed.

OCTOBER, 1779, CHAP. 4, PAGE 5, SESSION ACTS.

*An ACT for establishing the Town of Boonesborough, in the County of Kentucky.*

WHEREAS it hath been represented to this present general assembly, that the inhabitants of the township called Boonesborough, lying on the Kentucky river, in the county of Kentucky, have laid off twenty acres of land into lots and streets, and have petitioned this assembly that the said lots and streets, together with fifty acres of land adjoining thereto, may be laid off into lots and streets, and established a town, for the reception of traders; and that 640 acres of land, allowed by law to every such township for a common, may also be laid off adjoining thereto:

*Be it therefore enacted,* That the said fifty acres of land adjoining the said forty lots already laid off, shall be, and the same is hereby vested in Richard Callaway, Charles Minn Thruston, Levin Powell, Edmund Taylor, James Estre, Edward Bradley, John Kennedy, David Gist, Pemberton Rollings, and Daniel Boone, gentlemen, trustees, to be by them, or any six of them, laid out into lots of half an acre each, with convenient streets, which, together with the lots and streets so laid off in the said township, shall be, and the same is hereby established a town, by the name of Boonesborough.

*And be it further enacted,* That so soon as the said fifty acres of land shall be so laid out into lots and streets, the said trustees shall cause a plan thereof, together with a plan of the said township as the same is already laid off, to be returned to the court of the said county of Kentucky, there to be recorded; and the said trustees, or any six of them, are hereby empowered to convey the said lots to the persons first making application to hold the said lots respectively, subject to the condition of building on each of the said lots, a dwelling-house, sixteen feet square, at least, with a brick, stone, or dirt chimney, to be finished fit for habitation within three years from the date of their respective deeds; and the said trustees

are moreover empowered and directed to convey the lots now held by any person in the said township, to hold to such persons for the like estates, and subject to the like conditions with those holding lots laid out of the said fifty acres of land : that so soon as they shall have built upon and saved the said lots according to the condition of their respective deeds of conveyance, the said inhabitants shall then be entitled to have and enjoy all the rights, privileges and immunities, which the freeholders and inhabitants of other towns in this state not incorporated by charter, hold and enjoy. If any person taking a conveyance of a lot in the said town, shall fail to build thereon within the time before limited, the said trustees, or the major part of them, may thereupon enter into such lot and sell the same, and apply the money towards repairing the streets, or in any other way, for the benefit of said town. The said trustees shall cause 640 acres of land, on the south side of the river Kentucky, including the 70 acres allotted to be laid off into lots, to be surveyed adjoining to the said town, so that the same may be as near the centre thereof, as its situation will admit ; a platt whereof shall be returned to the court of the said county of Kentucky, there to be recorded ; which land, so laid off, is hereby vested in the said trustees and their successors, in trust to and for the use and benefit of the inhabitants of the said town. The said trustees, or the major part of them, shall have power from time to time, to settle and determine all disputes concerning the bounds of the lots, and to settle and establish such rules and orders for the regular and orderly building of houses thereon, as to them shall seem best and convenient ; and in case of the death, removal out of the county, or other legal disability of any one or more of the trustees before named, such vacancy shall be supplied in manner directed by an act of assembly entitled "an act to empower the freeholders of the several towns not incorporated to supply the vacancies of the trustees and directors thereof."

1787, CHAP. 64, PAGE 39.

*An ACT to explain and amend the act "for establishing the Town of Boonesborough, in the County of Kentucky."*

SECTION 1. WHEREAS it hath been represented to this present general assembly, that the trustees formerly appointed for the town of Boonesborough, in the county of Madison, formerly Kentucky, have refused to act, *be it therefore enacted*, that Thomas Kennedy, Aaron Lewis, Robert Rhodes,

Green Clay, Archibald Woods, Benjamin Bedford, John Sappington, William Irvine, David Crews, and Higgerson Grubbs, gentlemen, shall be, and they are hereby appointed trustees of the said town of Boonesborough, in the room of those heretofore appointed.

Sec. 2. And whereas doubts have arisen concerning the quantity of land vested in the trustees of the town aforesaid, *be it enacted*, that six hundred and forty acres of land shall be, and the same are hereby vested in the trustees aforesaid and their successors; seventy acres of which for the purpose of lots and streets, and the remainder for a common, to be laid off and appropriated in the same manner, and subject to the like orders and regulations that the act directs, establishing the town of Boonesborough.

MAY, 1780, CHAP. 26.

*An ACT for establishing the Town of Louisville, at the Falls of Ohio.*

WHEREAS sundry inhabitants of the county of Kentucky have, at great expense and hazard, settled themselves upon certain lands at the falls of Ohio, said to be the property of John Connolly, and have laid off a considerable part thereof into half acre lots for a town, and having settled thereon, have preferred petitions to this general assembly to establish the said town :

*Be it therefore enacted*, That one thousand acres of land, being the forfeited property of the said John Connolly, adjoining the lands of John Campbell and — Taylor, be, and the same is hereby vested in John Todd, jun. Stephen Trigg, George Slaughter, John Floyd, William Pope, George Merriwether, Andrew Hynes and Marsham Brashiers, gentlemen, trustees, to be by them, or any four of them, laid off into lots of half an acre each, with convenient streets and public lots, which shall be, and the same is hereby established a town, by the name of Louisville.

*And be it further enacted*, That after the said lands shall be laid off into lots and streets, the said trustees, or any four of them, shall proceed to sell the said lots, or so many as they shall judge expedient, at public auction, for the best price that can be had, the time and place of sale being previously advertised two months, at the court-houses of the adjacent counties, the purchasers respectively to hold the said lots, subject to the condition of building on each a dwelling-house, sixteen

feet by twenty, at least, with a brick or stone chimney, to be finished within two years from the day of sale ; and the said trustees, or any four of them, shall, and they are hereby empowered to convey the said lots to the purchasers thereof in fee simple, subject to the conditions aforesaid, on payment of the money arising from such sale to the said trustees, for the uses hereafter mentioned, that is to say : if the money arising from such sale shall amount to thirty dollars per acre, the whole shall be paid by the said trustees into the treasury of this commonwealth,\* and the overplus, if any, shall be lodged with the court of the county of Jefferson, to enable them to defray the expenses of erecting the public buildings of the said county : *Provided*, that the owners of lots already drawn shall be entitled to the preference therein, upon paying to the said trustees the sum of thirty dollars for such half acre lot, and shall be thereafter subject to the same obligations of settling, as other lotholders within the said town.

*And be it further enacted*, That the said trustees, or the major part of them, shall have power from time to time, to settle and determine all disputes concerning the bounds of the said lots, and to settle such rules and orders for the regular building thereon, as to them shall seem best and most convenient ; and in case of death or removal from the county of any of the said trustees, the remaining trustees shall supply such vacancies by electing others from time to time, who shall be vested with the same powers as those already mentioned.

*And be it further enacted*, That the purchasers of lots in the said town, so soon as they shall have saved the same according to their respective deeds of conveyance, shall have and enjoy all the rights, privileges and immunities, which the freeholders and inhabitants of other towns in this state, not incorporated by charter, hold and enjoy.

*And be it further enacted*, That if the purchaser of any lot shall fail to build thereon within the time before limited, the said trustees, or a major part of them, may thereupon enter into such lot, and may either sell the same again, and apply the money towards repairing the streets, or in any other way for the benefit of said town, or appropriate such lot to public uses, for the benefit of the inhabitants of said town ; *Provided*, that nothing herein contained shall extend to, affect or injure the title of lands claimed by John Campbell, gentleman, or those persons whose lots have been laid off on his lands, but

\* It is believed there is some mistake here in the printed copy, but the compiler has not the means of correcting it.

that their titles be and remain suspended until the said John Campbell shall be relieved from his captivity.

MAY, 1783, CHAP. 31.

*An ACT to suspend the sale of certain escheated Lands, late the property of John Connolly.*

WHEREAS it hath been represented to this assembly, by John Campbell, lately returned from captivity, that in his absence an act of assembly passed in the year 1780, "for establishing the town of Louisville, in the county of Jefferson," whereby one thousand acres of land, then supposed to be the property of John Connolly, was directed to be laid out into lots and streets, and the money arising from the sale thereof to be paid into the treasury; and whereas the said one thousand acres of land was, at the time of passing the said act, under a mortgage to the said John Campbell and one Joseph Simon, as a security for the payment of four hundred and fifty pounds, Pennsylvania currency, due to them from the said Connolly; and whereas other one thousand acres contiguous thereto, said to be the property of the said John Campbell, but then supposed to belong to the said John Connolly, together with the said one thousand acres on which the said town was established, were escheated, while the said Campbell was in captivity, and are now liable to be sold under the act concerning escheats and forfeitures from British subjects, whereby great injury may accrue to the said John Campbell:

Sec. 2. *Be it therefore enacted*, That all further proceedings respecting the sale of the said lots and lands shall be, and the same are hereby suspended until the end of the next session of the general assembly.

OCTOBER, 1783, CHAP. 15.

*An ACT for repealing in part the act for establishing the Town of Louisville.*

SECTION 1. WHEREAS John Campbell and John Connolly, being seized as tenants in common of and in four thousand acres of land, lying at the falls of the Ohio river, did, on the sixth of February one thousand seven hundred and seventy-six, execute each to the other a deed of partition of the said land, whereby the said John Connolly was to take one thousand acres at the upper end and one other thousand acres at the lower end of said tract as his purpart; and whereas the

said John Connolly being considerably indebted to the said John Campbell and Joseph Simon, and as a security for the payment thereof, did, by deed bearing date the seventh day of February one thousand seven hundred and seventy-six, mortgage to them the said two thousand acres of land; and whereas, in May session one thousand seven hundred and eighty, an act passed for laying off one thousand acres of land, then supposed to be the forfeited property of the said John Connolly, into lots and streets, and which was established a town, by the name of Louisville; and whereas it is represented to this present general assembly, by the said John Campbell, that partition lines have not been run for ascertaining the bounds between his and the said Connolly's land, and that the sum for which the said Connolly mortgaged his moiety of the land, together with the interest thereon, is still due to the said John Campbell and Joseph Simon, and it being unjust to take from them that security of the land so mortgaged by the said Connolly for the payment of his debt and interest:

Sec. 2. *Be it therefore enacted*, That the act of assembly for establishing the town of Louisville, at the falls of Ohio, so far as it affects the property of the said John Campbell and Joseph Simon, shall be, and the same is hereby repealed, and that no act, matter or thing had or done in virtue of the said act shall be construed, deemed or taken to affect or prejudice the title of the said John Campbell and Joseph Simon to the land aforesaid.

Sec. 3. *And be it further enacted*, That the surveyor of the county of Jefferson shall run the partition lines between the said John Campbell and John Connolly, according to the division lines described in the said deed of partition.

OCTOBER, 1784, CHAP. 65, PAGE 15.

*An ACT to amend and explain an act intituled "an act for repealing in part the act for establishing the Town of Louisville."*

SECTION 1. WHEREAS by an act passed in May one thousand seven hundred and eighty, intituled "an act for establishing the town of Louisville, at the falls of the Ohio, and one other town in the county of Rockingham," the escheated lands of a certain John Connolly were vested in trustees, for the purpose of establishing a town, to be known by the name of Louisville; and according to the directions of the said act,

parcels of the said land were laid off into lots, and sold by the said trustees, upon the conditions prescribed by the said act ; and whereas in October one thousand seven hundred and eighty-three, it appearing to the general assembly that John Campbell and the said John Connolly were seized as tenants in common of four thousand acres of land, lying at the falls of the river Ohio, and that the said John Campbell and John Connolly did execute to each other a deed of partition of the said land, but that the partition lines had never been run ; and it appearing moreover that the said John Connolly being indebted to the said John Campbell and a certain Joseph Simon, did mortgage his part of the said land to the said John Campbell and Joseph Simon, and that the land had not been redeemed from the said mortgage ; an act passed intituled " an act for repealing in part an act for establishing the town of Louisville," by which act the " act for establishing the town of Louisville" is repealed, so far as it affects the title of the said John Campbell and Joseph Simon to the land aforesaid ; and it is moreover enacted by the said act that the surveyor of Jefferson shall run the lines of partition between the said John Campbell and John Connolly : and whereas doubts have arisen upon the construction of the last mentioned act, in the minds of the purchasers of lots in the town of Louisville, with regard to their titles, and the trustees of the said town of Louisville know not how to proceed in executing the law passed in May one thousand seven hundred and eighty, for establishing the said town of Louisville :

Sec. 2. *Be it enacted*, That the trustees of the said town of Louisville shall, as soon as may be, give notice to the said John Campbell, and proceed to running the partition lines between the lands of the said John Campbell and John Connolly according to their respective deeds of partition ; and as soon as the said partition lines shall be run, the said trustees shall lay off into convenient lots or parcels, not exceeding one hundred acres, and sell such of the escheated lands of the said John Connolly as remain unsold, and shall in the first instance, after paying the necessary charges of surveying and laying off the said land, apply the money arising from such sales to redeeming the said land from the mortgage to the said John Campbell and Joseph Simon, and shall pay the overplus into the treasury of this commonwealth. And in case the said lines of partition shall have been run according to an act intituled " an act for repealing in part an act for establishing the town of Louisville," previous to the passing of this



act, then the said trustees shall proceed immediately to sell, in manner before directed, the said escheated lands of the said John Connolly, and to apply the money arising from such sale to the purposes aforesaid.

Sec. 3. *And be it further enacted*, That the said trustees shall receive all monies due for lots heretofore sold by them according to the act of May one thousand seven hundred and eighty, and shall apply such monies to the purposes aforesaid.

Sec. 4. *And be it further enacted*, That the titles of the purchasers of lots in the town of Louisville, under the said act of May one thousand seven hundred and eighty, shall be deemed valid against the claim of the said John Campbell and Joseph Simon, and their heirs or assigns. *Provided*, that this act shall not be construed to affect the title of the said John Campbell to such part of the town of Louisville as may have been laid off upon his part of the said land.

1786, CHAP. 82, PAGE 46.

*An ACT giving further time to Purchasers of Lots in the Town of Louisville to build thereon.*

SECTION 1. WHEREAS the purchasers of lots in the town of Louisville, in the county of Jefferson, from the frequent incursions and depredations of the Indians, and the difficulty of procuring materials, have not been able to build on their said lots within the time prescribed by law :

Sec. 2. *Be it therefore enacted*, That the further time of three years from the passing this act, shall be allowed the purchasers of lots in the said town to build upon and save the same.

1786, CHAP. 102, PAGE 51.

*An ACT directing the sale of Lands in the Towns of Louisville and Harrodsburg, and for other purposes.*

SECTION 1. *BE it enacted by the general assembly*, That Richard Clough Anderson, William Taylor, Robert Breckenridge, David Meriwether, John Clarke, Alexander Scott Bullitt, and James Francis Moore, gentlemen, are hereby constituted commissioners for the following purposes, that is to say, they or a majority of them shall have power and are required to demand and receive from the trustees of the town of Louisville, the amount of the sales of lots made by them, and upon refusal or neglect to pay the money, to institute one or more suits in their names, and the same to prose-

cute to recovery. The said commissioners, or a majority of them, shall sell and convey the lands in the said town remaining unsold by the said trustees, and apply the money arising therefrom, as well as the monies by them received for the former sales, after deducting the necessary charges of surveying and laying off the said lands, in the first place to the payment of what shall be due on the mortgage from John Connolly to John Campbell and Joseph Simon, and the surplus also to pay to the said Campbell and Simon, for and on account of six hundred and eight pounds three shillings and two pence half penny, together with legal interest on five hundred and seventy-seven pounds three shillings, part thereof from the fourth day of June one thousand seven hundred and seventy-six, due to the said Campbell and Simon from Alexander M'Kee.

Sec. 2. *And be it further enacted*, That the trustees of the town of Harrodsburg, shall, and they are hereby directed to sell, as soon as may be, so many lots in the said town as will raise a sum sufficient to pay the balance due to the said Campbell and Simon, either from the said Connolly or Alexander M'Kee, after deducting what shall be paid them, out of the sales of the lands in the town of Louisville, as aforesaid, and to apply such sum accordingly. The said commissioners are hereby constituted trustees of the said town of Louisville, in the room of those appointed by the act for establishing the said town, and shall have the same power and authority, to all intents and purposes, as the former trustees had.

1789, CHAP. 66, PAGE 35.

*An ACT granting further time to the possessors of Lots in the Towns of Clarksburg, Morgan's Town, Harrodsburg and Louisville, for building thereon.*

WHEREAS it is represented that the hostilities of the Indian tribes, and other causes, have prevented, or will prevent many of the possessors of lots in the town of Clarksburg, in the county of Harrison, of Morgan's Town, in the county of Monongalia, of Harrodsburg, in the county of Mercer, and of Louisville, in the county of Jefferson, from building thereon, in pursuance of the acts by which the said towns were established:

*Be it enacted by the general assembly*, That every possessor of a lot in any of the said towns, shall be allowed the farther space of three years, after the day limited by law shall ex-

pire, for building thereon, conformably to the acts for establishing the said towns respectively.

1789, CHAP. 71, PAGE 37, SEC. 2.

*BE it enacted*, That Buckner Thruston, James Wilkinson, Michael Lacassagne, Alexander Scott Bullitt, Benjamin Sebastian, John Felty, Jacob Reager, James Patton, Samuel Kirby, Benjamin Erickson and Benjamin Johnson, gentlemen, shall be, and they are hereby constituted and appointed trustees of the town of Louisville, in the county of Jefferson, in addition to those heretofore appointed; and it shall be lawful for any seven of the trustees of the said town of Louisville, to proceed in the execution of the act for establishing the said town, any law to the contrary thereof notwithstanding.

1790, CHAP. 29, PAGE 19.

*An ACT to explain and amend the several acts of assembly concerning the Town of Louisville, in the County of Jefferson, and for other purposes.*

WHEREAS it is represented to this present general assembly, that inconveniencies have arisen on account of the powers given to the trustees and the commissioners of the town of Louisville, in the county of Jefferson, not being sufficiently defined: for remedy whereof,

*Be it enacted by the general assembly*, That the powers heretofore vested in the commissioners by an act entitled "an act directing the sale of lands in the towns of Louisville and Harrodsburg, and for other purposes," shall be vested in, and in future exercised only by James Francis Moore, Abraham Hite, Abner Martin, Donne Basil Prather, and David Standeford, gentlemen, or a majority of them; and in case of the death, refusal to act, resignation, removal out of the county, or any other legal disability of any of the said commissioners, the remaining commissioners shall, and they are hereby directed to appoint others in their stead, who shall, to all intents and purposes, be vested with, and exercise the same powers and authorities as those mentioned in this act; any act or acts to the contrary notwithstanding.

1791, CHAP. 66, PAGE 30.

*An ACT for vesting in John Campbell, the interest which the Commonwealth hath in one thousand acres of Land, lying at the Falls of the Ohio River.*

SECTION 1. WHEREAS it is represented to this general assembly, that previous to the year one thousand seven hundred and seventy-six, John Connolly and John Campbell were seized as tenants in common, of and in two thousand acres of land, lying at the falls of the Ohio river, which became escheated to the commonwealth, in consequence of an inquest of office found against the same as the absolute property of the said John Connolly, which inquest was taken some time in the year one thousand seven hundred and eighty, and whilst the said John Campbell was in captivity. And whereas the surveyor of Jefferson county hath, in conformity to the act of assembly passed in the year one thousand seven hundred and eighty-three, intitled "an act for repealing in part the act for establishing the town of Louisville," allotted to the said John Campbell, one moiety of the said two thousand acres of land, by running a line of division thereof between him and the said John Connolly, agreeably to their deed of partition made and executed by the said parties, each to the other, bearing date the sixth day of February, one thousand seven hundred and seventy-six; and the said John Campbell hath petitioned this assembly that the right of the commonwealth in and to the moiety of the said land so allotted to him, may be released and vested in him, which is adjudged reasonable: *Be it therefore enacted*, That all the right, title, interest, claim and demand, which now exists in the commonwealth in and to the moiety of the said two thousand acres of land, as comprehended and included in the division made by the surveyor of Jefferson county, and allotted to the said John Campbell, shall pass, descend, and be vested in him, the said John Campbell, and his heirs; in fee simple.

Sec. 2. *Saving, nevertheless*, The sights, legal and equitable, of all and every person and persons, bodies politic or corporate, except of the commonwealth, and those claiming under it, in and to the said one thousand acres of land, so allotted to the said John Campbell.

MAY, 1782, CHAP. 33.

*An ACT to establish a Town at the Court-House in the County of Fayette.*

SECTION 1. WHEREAS it is represented to this assembly, that six hundred and forty acres of unappropriated lands, in the county of Fayette, whereon the court-house of the said county stands, have been by the settlers thereon laid out into lots and streets for a town, and that the said settlers have purchased seventy acres contiguous to the said six hundred and forty acres, being part of a survey made for John Floyd; and whereas it would tend greatly to the improvement and settling the same, if the titles of settlers on the lots were confirmed and a town established thereon:

Sec. 2. *Be it therefore enacted*, That the said seven hundred and ten acres of land be, and same is hereby vested in fee simple in John Todd, Robert Patterson, William Mitchell, Andrew Steel, William Henderson, William M'Cownald, and William Steel, gentlemen, trustees, and established a town by the name of Lexington.

Sec. 3. *And be it further enacted*, That the said trustees, or any four of them, shall, and they are hereby empowered and required to make conveyances to those persons who have already settled on the said lots, as also to the purchasers of lots heretofore sold, agreeable to the conditions of the contracts, and may also proceed to lay off such other parts of the said land as is not yet laid off and settled, into lots and streets; and such lots shall be by the trustees sold or otherwise disposed of for the benefit of the inhabitants of the said town, and convey the same under proper, agreeable to the condition of the contract: *Provided always*, that the lots in the said town which have been laid off and set apart for erecting thereon the public buildings of the said county, shall be and remain to and for that use and purpose, and no other whatever.

Sec. 4. *And be it further enacted*, That the said trustees, or the major part of them, shall have power from time to time to settle and determine all disputes concerning the bounds of the said lots, and to settle such rules and orders for the regular building of houses thereon as to them shall seem best and most convenient; and in case of the death, removal out of the county, or other legal disability of any of the said trustees, it shall and may be lawful for the remaining trustees to elect and choose so many other persons in the room of those dead, re-

moved or disabled, as shall make up the number; which trustees so chosen shall be, to all intents and purposes, individually vested with the same power and authority as any one in this act particularly mentioned.

Sec. 5. *And be it further enacted*, That the settlers as well as purchasers of the lots in the said town, so soon as they shall have saved the same according to the condition of their respective deeds of conveyance, shall be entitled to and have and enjoy all the rights, privileges and immunities which the freeholders and inhabitants of other towns in this state, not incorporated by charter or act of assembly, have and enjoy.

Sec. 6. *And be it further enacted*, That the said trustees shall cause the survey and platt of the said town to be recorded in the court of the said county of Fayette, saving to all persons all such right, title and interest which they or any of them could or might have to the lands, or any part thereof, hereby vested in the said trustees, if this act had never been made.

1789, CHAP. 65, PAGE 35.

*An ACT empowering the Trustees of the Town of Lexington, in the County of Fayette, to sell a part of the Public Lot in the said Town, for the purpose of erecting thereon a House of Worship.*

SECTION 1. WHEREAS by the act for establishing the town of Lexington, in the county of Fayette, a lot of land within the said town was reserved for public use, and it has been represented by the inhabitants of the said county, that the dimensions of the said lot exceed what is necessary for the purposes intended by the said act: *Be it therefore enacted by the general assembly*, that the said lot shall be divided by a line beginning on the Main street, six poles from the west corner, and thence across the said lot a north-east course; and that the part thereof lying north-west of the said line, shall be set apart for the particular purpose of erecting thereon a house of divine worship; and the trustees of the said town are hereby authorised and empowered to sell the same to the highest bidder, at public vendue, for the purpose aforesaid, giving previous notice in the Kentucky Gazette of the time and place of such sale; and whatever denomination of Christians shall become the legal purchasers thereof, the said trustees are hereby also directed to make or cause to be made a deed or deeds, so as to convey the title thereof to the said purchasers and their successors forever.

Sec. 2. *And be it further enacted*, That the money arising from the sale thereof be applied towards the building a market-house in the said town.

1790, CHAP. 60, PAGE 39.

*An ACT concerning certain regulations in the Town of Lexington, and County of Fayette.*

SECTION 1. *BE it enacted by the general assembly*, That it shall and may be lawful for the freeholders, housekeepers and free male inhabitants of the town of Lexington, in the county of Fayette, and those within one mile of the court-house in the said town, aged twenty-one years, other than free negroes or mulattoes, who have resided therein for the space of six months, and who possess in their own right within the said town and limits aforesaid, moveable property of the value of twenty-five pounds, to elect and choose seven trustees; which election shall be conducted by the sheriff of the said county, and held at the court-house, on the second Monday in May next, of which previous notice shall be given by advertisement, at the door of the said court-house, on the court day next preceding the said election.

Sec. 2. The sheriff shall make return of the persons elected to the clerk of the court, to be by him recorded, and moreover return a fair copy of the poll by him taken, to the person having the greater number of votes, to be recorded with the other proceedings of the said trustees, in books to be by them kept for that purpose.

Sec. 3. The said trustees and their successors, or a majority of them, shall have power to erect and repair a market-house in the said town, to appoint a clerk of the market, to regulate and repair the streets and highways in the said town and limits aforesaid, to remove nuisances and obstructions therein, and to impose taxes not exceeding one hundred pounds annually, on the titheables and property, real and personal, within the said town and limits aforesaid, for the purpose of carrying into execution all or any of the powers hereby given them; to make provision and regulations for the collecting and accounting for the taxes so raised, by appointing a collector, and directing distress to be made for delinquencies, or by any other ways or means, and to make such ordinances and regulations, not contrary to the laws and constitution of this commonwealth, as shall by them, or a majority of them, be thought necessary for carrying this act into effect.

Sec. 4. Vacancies by death, or otherwise, of the said trustees, or any of them, shall be supplied by elections to be made in like manner as herein before directed, on a day to be appointed by the remaining trustees, whereof return shall be made of the person elected, with a fair copy of the poll to the said trustees to be recorded.

Sec. 5. No person shall be capable of being elected a trustee, who is not a freeholder and inhabitant of the said town, or a freeholder and resident within the limits aforesaid, at the time of election.

Sec. 6. Whensoever a trustee shall cease to be a freeholder, inhabitant or resident as aforesaid, he shall thenceforth be considered as disqualified, and another shall be elected in his stead.

Sec. 7. *And be it further enacted*, That from and after the appointment of trustees, in consequence of this act, the former trustees, appointed under an act of assembly intituled "an act to establish a town at the court-house in the county of Fayette," shall cease to act, and all the property, papers and records belonging to them as trustees, shall become vested in the trustees appointed by virtue of this act, who shall exercise the same powers and authorities as are now, or heretofore have been vested in, or exercised by the trustees under the said recited act.

1785, CHAP. 107, PAGE 70.

*An ACT for establishing a Town in the County of Lincoln.*

SECTION 1. WHEREAS it is represented to this present general assembly, that the laying off the village or township known by the name of Harrodsburg, in the county of Lincoln, into lots and streets, and establishing the same by law, will be of public utility :

Sec. 2. *Be it enacted*, That the six hundred and forty acres of land allowed by law, including the said village or township, shall be, and the same is hereby vested in William Christian, John Brown, Robert Mosby, Samuel Lapsley, Peter Casey, John Smith, Samuel Taylor, John Cowan, John Gilmore, James Harrod, Abraham Chaplaine, William Kennedy, and Benjamin Logan, gentlemen, trustees, to be by them, or any seven of them, laid off into lots, with convenient streets, and established a town, by the name of Harrodsburg.

Sec. 3. *And be it further enacted*, That such of the inhabitants of the said township who were residents therein on the



first day of June, in the year one thousand seven hundred and seventy-nine, and have resided there ever since, or who have not obtained a certificate for a settlement and pre-emption from the commissioners appointed in that country for adjusting claims to unpatented lands, agreeable to law, shall retain their just possessions; provided that such possessions shall not exceed half an acre for each family, for an in-lot, and ten acres each for an out-lot; and the said trustees, or a major part of them, shall convey to such claimants their possessions aforesaid, without any other consideration.

Sec. 4. The said trustees shall cause an accurate survey to be made of the said township, and after ascertaining the claims of the several persons who may have a right to lots, according to this act, shall proceed to sell the residue thereof on twelve months credit, giving sufficient notice of the time of such sale, taking bonds with sufficient security, payable to themselves as trustees aforesaid, and convey the said lots to the purchasers in fee; and that after deducting the surveyor's fees, and other incidental expenses, together with five per centum for collection, shall settle their account on oath, before the supreme court for the district of Kentucky, and pay the balance into the public treasury. Upon the death, removal out of the county, resignation, or other legal disability of any of the trustees, the remaining trustees shall proceed to appoint others to such vacancies, as often as the same shall happen; and the said trustees so appointed shall individually be vested with the same powers, to all intents and purposes, as any one in this act particularly mentioned.

Sec. 5. *And be it further enacted*, That the owners or purchasers of lots in the said town of Harrodsburg, shall, within three years from the day of sale, erect and build thereon a dwelling-house, of the dimensions of twenty feet by sixteen, at the least, with a brick or stone chimney, or on failure thereof it shall and may be lawful for the trustees, or a major part of them, to re-enter and possess the same again, with full power to dispose of such lots so forfeited for the best price that can be got, and apply the money arising therefrom to the use and advantage of the said town. The trustees aforesaid, or any seven of them, shall have power from time to time to settle and determine all disputes concerning the bounds of the said lots, and to settle such rules and orders for the regular building of houses thereon, as to them shall seem best and most convenient. And the owners or purchasers of lots in the said town, so soon as they shall have built upon and saved

the same, according to the directions of this act, shall be entitled to and enjoy all the rights, privileges and immunities which the freeholders and inhabitants of other towns in this state, not incorporated, hold and enjoy.

1785, CHAP. 108, PAGE 71.

*An ACT to establish a Town on the Lands of John Campbell, in the County of Jefferson.*

SECTION 1. WHEREAS it hath been represented to the general assembly, that John Campbell hath laid off one hundred and fifty-six lots, with convenient streets, opposite the lower falls of Ohio river, in the county of Jefferson, for the purpose of a town; and whereas it hath also been represented that it will be agreeable to the purchasers of the said lots, and an encouragement to settle thereon, if the same was established by law:

Sec. 2. *Be it therefore enacted*, That the said one hundred and fifty-six lots, so as aforesaid laid off, be established a town, and called Campbell town; and that Richard Taylor, Edmund Taylor, James Sullivan, Alexander Breckenridge, and Robert Breckenridge, gentlemen, be, and are hereby appointed trustees of the same; which said trustees, or a majority of them, are hereby authorised to make such rules and orders for the regular building therein, as to them shall appear most conducive to the good and convenience of the inhabitants, and have full power to settle and determine all disputes about the limits or boundaries of the said lots, and for the clearing, cleansing and keeping in good order the streets thereof. In case of the death, resignation, removal out of the county or any other legal disability of any one or more of the said trustees, it shall be lawful for the remaining trustees to elect and choose so many other persons in the room or stead of those deceased, resigned, removed or disabled, which trustees so elected shall be, to all intents and purposes, vested with the same power and authority as any other in this act particularly appointed.

Sec. 3. *And be it further enacted*, That so soon as the purchasers or owners of lots within the said town shall have built thereon a dwelling-house of sixteen feet square, with a brick or stone chimney, such purchaser or owner shall be entitled to have and enjoy all the rights, privileges and immunities which the freeholders and inhabitants of other towns in this state, not incorporated, hold and enjoy.

Sec. 4. *And be it further enacted*, That it shall not be lawful to build wooden chimnies within the said town; and if any person shall build or begin to build any wooden chimney or chimnies within the same, the trustees thereof may direct all such to be pulled down and demolished.

1786, CHAP. 71, PAGE 43.

*An ACT for establishing a Town in the County of Bourbon.*

SECTION 1. WHEREAS the village called and known by the name of Washington, in the county of Bourbon, containing about seven hundred acres of land, hath been laid off for in and out-lots, with convenient streets, and it is represented to this present general assembly, that it will be of great advantage to the holders of the said lots and others if the same were established a town :

Sec. 2. *Re it therefore enacted*, That the said seven hundred acres of land, so laid off into lots and streets, shall be, and the same is hereby established a town, by the name of Washington, and that Edmund Lyne, Edward Waller, Henry Lee, Miles W. Conway, Arthur Fox, Daniel Boone, Robert Rankins, John Gutridge, and William Lamb, gentlemen, be trustees of the same. The said trustees, or a majority of them, are authorised to make such rules and orders for the regular building therein, as to them shall seem most conducive to the convenience of the inhabitants, and to settle and determine all disputes about the bounds of the said lots. In case of the death, resignation, removal out of the county, or other legal disability of any one or more of the said trustees, it shall be lawful for the remaining trustees to choose others in their stead; which trustees so elected shall have the same power and authority as any other in this act particularly appointed.

Sec. 3. *And be it further enacted*, That so soon as the owners of lots within the said town shall have built a dwelling-house, sixteen feet square, with a brick or stone chimney, such owner shall have and enjoy the same privileges and immunities which the freeholders and inhabitants of other towns, not incorporated, hold and enjoy.

1790, CHAP. 53, PAGE 35.

*An ACT to amend an act intituled "an act for establishing a Town in the County of Bourbon."*

SECTION 1. WHEREAS by the act of general assembly, passed in the year of our lord one thousand seven hundred and

eighty-six, intituled "an act to establish a town in the county of Bourbon," the boundaries of the said town land are not described, and it is necessary for the prevention of disputes that the same should be done :

Sec. 2. *Be it therefore enacted by the general assembly,* That the following tract of land, beginning at two sugar trees near a small branch, the south-east corner of a survey made in the name of Edmund Lyne ; thence north to John Tebbs's pre-emption line ; thence west to Simon Kenton, assignee of Joseph Frezier ; thence along said Kenton's line south twenty-four degrees west to a line of a survey of three hundred and twenty acres purchased from said Kenton by William Wood and Arthur Fox ; thence west with said line to a hackberry, corner to said survey ; thence south one hundred and four poles to a white thorn ; thence west forty-six poles to two honey locusts and hickory, corner to a survey made in the name of John Craig and Robert Johnston, assignees of John May, who was assignee of James M'Kinley ; thence with their line south to a white ash and elm, another corner to said Craig and Johnston ; thence east sixty-five poles to a forked buckeye and white ash sapling, in a line of a survey made for William Ward ; thence north to a large sugar tree marked as a corner ; thence north eighty-eight degrees east, so far that a line running due north, shall strike the beginning, shall be, from and after the passing of this act, deemed and taken as the bounds of the said town of Washington, in the said county of Bourbon, which has been laid off into in and out lots, with convenient streets for that purpose, according to the intention of the said recited act ; and that Edmund Lyne, Henry Lee, Miles W. Conway, Arthur Fox, Robert Rankin, John Gutridge, William Lamb, Alexander D. Orr, Thomas Sloe, and Richard Corwine, gentlemen, shall be appointed trustees for carrying this act into complete execution ; which trustees, or a majority of them, shall be authorised and empowered to make such rules, orders and regulations for building thereon, as to them shall seem most conducive to the convenience of the inhabitants of the said town, and to settle and determine any dispute that may hereafter arise respecting the boundaries thereof.

Sec. 3. In case of the death, resignation, removal out of the said county, or other legal disability of any one or more of the said trustees, it shall be lawful for the remaining trustees to choose others in their stead ; which trustees, so elected, shall have the same powers and authority, as any other trustees herein named.

Sec. 4. *And be it further enacted,* That so soon as the owner or owners of any lot or lots within the said town, shall have built a dwelling-house sixteen feet square, with a brick or stone chimney, such owner or owners shall have and enjoy the same privileges and immunities, which the freeholders and inhabitants of other towns, not incorporated, hold and enjoy.

1786, CHAP. 99, PAGE 50.

*An ACT for establishing a Town on the Lands of James Wilkinson, in Fayette County, and a Ferry across Kentucky River.*

SECTION 1. *BE it enacted by the general assembly,* That one hundred acres of land in the county of Fayette, the property of James Wilkinson, which have been laid off into lots and streets, shall be vested in Caleb Wallace, Thomas Marshall, Joseph Crocket, John Fowler, jun. John Craig, Robert Johnston, and Benjamin Roberts (of Jefferson), gentlemen, trustees, and shall be established a town, by the name of Frankfort. The said trustees, or a majority of them, shall, within six months after passing of this act, sell at public auction, all the lots within the said town which have not been heretofore disposed of by the said James Wilkinson, advertising the time and place of such sale at the door of the court-house of the said county of Fayette, on two successive court days. The purchaser shall hold the said lots respectively, subject to the condition of building on each a dwelling-house, sixteen feet square, with a brick or stone chimney, to be finished fit for habitation within two years from the day of sale; and the said trustees, or a major part of them, shall convey the said lots to the purchasers in fee, subject to the condition aforesaid, and pay the money arising therefrom to the said James Wilkinson, or his legal representatives; the said trustees, or a major part of them, shall have power to settle all disputes concerning the bounds of the said lots, and to establish such regulations for the regular building of houses thereon as to them shall seem best. In case of the death, removal out of the county or other legal disability of any one or more of the said trustees, it shall be lawful for the remaining trustees to supply such vacancy; and the persons so chosen, shall have the same power as the trustees appointed by this act. The purchasers of the said lots, so soon as they shall have built upon and saved the same according to the conditions of their respective deeds of conveyance, shall enjoy all the privileges

which the inhabitants of other towns in this state, not incorporated, hold and enjoy. If the purchaser of any lot shall fail to build thereon within the time before limited, the said trustees, or a major part of them, may thereupon enter into such lot, and sell the same again, and apply the money for the benefit of the inhabitants of said town.

Sec. 2. *And be it further enacted*, That a public ferry shall be constantly kept across the Kentucky river, from the lands of the said James Wilkinson, in the town of Frankfort, to the opposite shore, and the rates for passing the same be as followeth: for a man, four pence, and for a horse the same; and for the transportation of tobacco, wheel carriages, cattle and other beasts, the ferry-keeper may demand and take the same rates as are allowed by law at other ferries. If the ferry-keeper shall demand or receive from any person or persons whatsoever, any greater rates than are hereby allowed, he shall, for every offence, forfeit and pay to the party grieved the ferriage demanded or received, and ten shillings; to be recovered with costs before a justice of the peace of the county where the offence shall be committed.

1787, CHAP. 57, PAGE 38.

*An ACT to amend the act intituled "an act for establishing a Town on the Lands of James Wilkinson, in Fayette County, and a Ferry across Kentucky River."*

SECTION 1. WHEREAS by an act of the last session of assembly, entitled "an act for establishing a town on the lands of James Wilkinson, in Fayette county, and a ferry across Kentucky river," the trustees of the said town were directed to sell the lots within six months after the passing of the said act, and it is represented to the present assembly that the time elapsed before the trustees could proceed to the sale of any of the said lots: for remedy whereof,

*Be it enacted*, That the further time of three years from and after the passing of this act, shall be allowed the said trustees to sell the lots in the said town, any law to the contrary notwithstanding.

1786, CHAP. 103, PAGE 52.

*An ACT to establish a Town on the Lands late the property of Benjamin Logan, in the County of Lincoln, and to fix the place of holding Courts therein.*

SECTION 1. WHEREAS it is represented to this present general assembly, that Benjamin Logan hath given and con-

veyed to the justices of the county court of Lincoln, twenty-six acres of land, which have been by the said court laid off into lots, with convenient streets, and disposed of, reserving as much ground as will be sufficient for the purpose of erecting thereon a court-house and prison, and that it would be of public advantage were the said lots established a town, and courts for the said county held therein :

Sec. 2. *Be it therefore enacted*, That the said twenty-six acres of land, so laid off into lots and streets, shall be, and they are hereby established a town, by the name of Stanford, and that Benjamin Logan, John Logan, William Montgomery, Henry Pauling, Isaac Shelby, Walker Baylor, and Alexander Blane, gentlemen, be trustees of the same, who, or a majority of them, are authorised to make such rules for the regular building therein, as to them shall seem most convenient, and to settle and determine all disputes about the bounds of the said lots. In case of the death, resignation, removal out of the county or other legal disability of any one or more of the said trustees, the remaining trustees shall choose others in their stead, who shall have the same power and authority as any other in this act particularly appointed. So soon as the owners of lots in the said town shall have built thereon a dwelling-house, sixteen feet square, with a brick or stone chimney, such owner shall have and enjoy the same privileges as the freeholders and inhabitants of other towns in this state, not incorporated, hold and enjoy. The court of the said county of Lincoln shall proceed to erect a court-house and prison on the land by them set apart for that purpose in the said town of Stanford, and when the same shall be completed courts for the said county shall thenceforth be held at the said place.

1786, CHAP. 106, PAGE 52.

*An ACT to establish a public Ferry, a Town, and an Inspection of Tobacco, on the Lands of John Curd, in the County of Mercer.*

SECTION 1. WHEREAS it has been represented to this present general assembly, that it would be of public utility, to establish a ware-house for the reception and inspection of tobacco on the lands of John Curd, in the county of Mercer :

Sec. 2. *Be it therefore enacted*, That an inspection of tobacco shall be, and the same is hereby established, on the land of the said John Curd, lying at the mouth of Dick's ri-

ver, in the county of Mercer, to be called and known by the name of Curd's ware-house. There shall be allowed and paid annually to each of the inspectors at the said ware-house, the sum of thirty pounds, for their salary.

Sec. 3. *Provided always, and be it further enacted*, That if the quantity of tobacco inspected at the said ware-house, shall not be sufficient to pay the usual charges, and the inspector's salaries, the deficiency shall not be paid by the public.

Sec. 4. *And be it further enacted*, That twenty acres of land, the property of the said John Curd, lying at the confluence of the Kentucky and Dick's river, in the said county of Mercer, be, and they are hereby vested in John Jouet, Gabriel Madison, James Hoard, Samuel Prior, Alexander Robertson, Robert Mosby, James Overton, Harry Innes, Joseph Crocket, and William Lewis, gentlemen, trustees, to be by them, or a majority of them, laid out into lots of half an acre each, with convenient streets, and established a town, by the name of New-Market. So soon as the said twenty acres of land shall be laid off into lots and streets, the said trustees, or the major part of them, shall proceed to sell the same, at public auction, for the best price that can be had, the time and place of which sale shall be previously advertised for three months, at the court-house of each of the said counties of Mercer, Lincoln and Fayette. The purchasers to hold the said lots respectively, subject to the condition of building on each a dwelling-house, containing sixteen feet square, at least, with a brick or stone chimney, to be finished fit for habitation within two years from the day of sale; and the said trustees, or the major part of them, shall convey the said lots to the purchasers in fee, subject to the condition aforesaid, and pay the money arising from the sale thereof, to the said John Curd, or his legal representatives. The said trustees, or the major part of them, shall have power, from time to time, to settle and determine all disputes concerning the bounds of the lots, and to establish such rules and orders for the regular building of houses thereon, as to them shall seem best. In case of the death, removal out of the county, or other legal disability, of any one or more of the said trustees, it shall be lawful for the remaining trustees to elect and chuse other persons in the room of those dead, or disabled, who shall be vested with the same powers and authority, as any other in this act particularly appointed. The purchasers of the said lots, so soon as they shall have built upon and saved the same, according to the conditions of their respective deeds of con-



veyance, shall be entitled to and have and enjoy all the rights, privileges and immunities which the freeholders and inhabitants of other towns in this state, not incorporated, hold and enjoy. If the purchaser of any lot shall fail to build thereon within the time before limited, the said trustees, or a major part of them, may thereupon enter into such lot and sell the same again, and apply the money for the benefit of the inhabitants of the said town.

Sec. 5. *And be it further enacted*, That a public ferry shall be constantly kept at the following place, and the rates for passing the same, as followeth; that is to say, from the land of the said John Curd, in the county of Mercer, across Kentucky river, to the opposite shore, for a man four pence, and for a horse the same; and for the transportation of wheel carriages, tobacco, cattle, and other beasts, at the place aforesaid, the ferry-keeper may demand and take the same rates as are by law allowed at other ferries. If the ferry-keeper shall demand or receive from any person or persons whatsoever, any greater rates than are hereby allowed, he shall, for every offence, forfeit and pay to the party grieved the ferriage demanded or received, and ten shillings, to be recovered with costs before a justice of the peace of the county where the offence shall be committed.

1787, CHAP. 63, PAGE 39.

*An ACT to establish a Town in the County of Mercer.*

SECTION 1. WHEREAS Walker Daniel, in his lifetime, laid off part of seventy-six acres of his land, in the county of Mercer, into lots and streets, and sold and conveyed them to the purchasers; and Robert Daniel, his brother, to whom his lands descended, hath since the death of the said Walker Daniel, laid off the residue of the said seventy-six acres into lots, and sold and conveyed them to the purchasers; and did moreover convey the springs within the said town to certain persons and their successors, in trust, for the use of those persons who should reside on the said lots, and also conveyed a square of ground to other persons, in trust, for the special purpose of erecting thereon the public buildings of the district. And application being made to the present general assembly, to establish the lots and streets so laid off, into a town, and confirm the said two deeds of conveyance,

Sec. 2. *Be it therefore enacted*, That the lots and streets so as aforesaid laid off, shall be, and they are hereby established

a town, by the name of Danville, and that John Jouit, William M'Dowell, Harry Innes, Christopher Greenup, Samuel M'Dowell, sen. Abraham Irvin, sen. George Muter, and William Kennedy, gentlemen, be trustees thereof, who, or the major part of them, shall have power from time to time to settle and determine all disputes concerning the bounds of the said lots, and to establish such rules for the regular building of houses thereon, as them shall seem best. In case of the death, removal out of the county, or other legal disability of any one or more of the said trustees, it shall be lawful for the remaining trustees to supply such vacancy; and the persons so chosen shall have the same power and authority as any one particularly appointed by this act. So soon as the purchasers of lots in the said town shall have respectively built thereon a house sixteen feet square, with a brick or stone chimney, they shall be entitled to and have and enjoy all the rights, privileges and immunities which the freeholders and inhabitants of other towns, not incorporated, hold and enjoy.

Sec. 3. *And be it further enacted*, That the deeds conveying the springs and square of ground within the said town as aforesaid, shall be, and they are hereby declared to be good and valid for the uses and purposes therein expressed.

1787, CHAP. 71, PAGE 40.

*An ACT to establish a Town on the Lands of Ignatius Mitchell, in the County of Bourbon.*

SECTION 1. *BE it enacted by the general assembly*, That eighty acres of land at the mouth of Lawrence's creek, on the river Ohio, the property of Ignatius Mitchell; shall be, and the same are hereby vested in John Grant, Charles Smith, jun. Thomas Warren, Miles Withers Conway, Henry Lee, John Machir, and Robert Rankin, gentlemen, trustees, to be by them, or any four of them, laid out into lots of half an acre each, with convenient streets, and shall be established a town, by the name of Charlestown. So soon as the said eighty acres of land shall be laid off into lots and streets, the said trustees, or the major part of them, shall proceed to sell the lots at public auction for the best price that can be had, the time and place of which sale shall be previously advertised for two months at the door of the court-house of the county of Bourbon. The purchasers of the said lots respectively, shall hold the same subject to the condition of building on each a dwelling-house sixteen feet square at the least, with a brick or

stone chimney, to be finished fit for habitation within three years from the day of sale. The said trustees, of the major part of them, shall convey the said lots to the purchasers in fee, subject to the condition aforesaid, and shall pay the money arising from the sale thereof to the said Ignatius Mitchell or his legal representatives. The said trustees, or a majority of them, shall have power from time to time to settle and determine all disputes concerning the bounds of the said lots, and to make such regulations for the regular building of houses thereon, as to them shall seem most proper. In case of the death, removal out of the county, or other disability of any of the said trustees, it shall be lawful for the others to supply such vacancy; and the persons so chosen shall have the same powers as if they had been named in this act. The purchasers of the lots, when they shall have built upon them according to the conditions of their deeds, shall have the same rights, privileges and immunities that the inhabitants of the other towns, not incorporated, hold and enjoy. If the purchaser of any lot shall fail to build thereon according to the condition of his deed, the said trustees, or a major part of them, may thereupon enter into such lot, and sell the same again, and apply the money arising therefrom in any manner for the benefit of the said town.

1791, CHAP. 57, PAGE 26.

*An ACT giving further time to the purchasers of Lots in the Town of Charlestown to build thereon.*

WHEREAS the purchasers of lots in the town of Charlestown, in the county of Mason, from the difficulty of procuring materials, have not been able to build on their said lots within the time prescribed by law:

*Be it therefore enacted by the general assembly,* That the further time of two years from the passing of this act, shall be allowed the purchasers of lots in the said town to build upon and save the same.

1787, CHAP. 89, PAGE 44.

*An ACT to establish a Town in each of the Counties of Mercer and Nelson.*

SECTION 1. *BE it enacted by the general assembly,* That fifty acres of land, lying on Kentucky river, near Harrod's landing, in the county of Mercer, the property of Walter

Beall, are hereby vested in Hugh Magary, Thomas Allen, Benjamin Bell, Christopher Greenup, Samuel M'Afee, and Stephen Arnold, gentlemen, trustees, to be by them, or a majority of them, laid off into lots of half an acre each, with convenient streets, and established a town, by the name of Warwick.

Sec. 2. *And be it further enacted*, That fifty acres of land, lying at the mouth of Beech fork, on Salt river, in the county of Nelson, the property also of the said Walter Beall, are hereby vested in James Morrison, Francis Parepoint, Samuel Pottinger, Isaac Morrison, James Adams, Isaac Cox, Cuthbert Harrison, George Harrison, Andrew Hinds, John Kennedy, William Kendell, and Adkin Hill, gentlemen, trustees, to be by them, or a majority of them, laid off into lots of half an acre each, with convenient streets, and established a town, by the name of Beallsborough.

Sec. 3. That so soon as the said lands shall respectively be laid off into lots and streets, the trustees of each, or a majority thereof, shall proceed to sell the same at public auction, for the best price that can be had; the time and place of which sales shall be previously advertised for six months at the court-house of each of the counties of Mercer, Nelson, Lincoln, and Fayette; and convey the said lots to the purchasers in fee, subject to the condition of building on each a dwelling-house sixteen feet square at least, with a brick or stone chimney, to be finished fit for habitation within three years from the day of sale, and pay the money arising from such sales to the said Walter Beall, or his legal representatives.

Sec. 4. The trustees of the said towns respectively, or a majority of either of them, shall have power from time to time to settle and determine all disputes concerning the bounds of the lots, and to establish such rules and orders for the regular building of houses thereon, as to them shall seem best.

Sec. 5. In case of the death, resignation, removal out of the county, or other legal disability of any of the said trustees, it shall be lawful for the remaining trustees, respectively, of either of the said towns, to elect others in their stead, who shall be vested with the same powers as any particularly appointed by this act.

Sec. 6. The purchasers of the said lots, so soon as they shall have built upon and saved the same according to the condition of their respective deeds of conveyance, shall be entitled to and enjoy all the rights, privileges and immunities which the freeholders and inhabitants of other towns in this state, not incorporated, hold and enjoy.

Sec. 7. If the purchaser of any lot shall fail to build thereon within the time before limited, the trustees of the town where such failure shall happen, or a majority of them, may thereupon enter into such lot, and sell the same again, and apply the money for the benefit of the inhabitants of the said town.

1787, CHAP. 91, PAGE 45.

*An ACT to establish a Town in the County of Bourbon.*

SECTION 1. *BE it enacted by the general assembly*, That one hundred acres of land, lying on the lower side of Limestone creek, in the county of Bourbon, the property of John May and Simon Canton, are hereby vested in Daniel Boone, Henry Lee, Arthur Fox, Jacob Boone, Thomas Brooks, and George Miford, gentlemen, trustees, to be by them, or a majority of them, laid off into lots of half an acre each, with convenient streets, and established a town by the name of Maysville.

Sec. 2. So soon as the said land shall be laid off into lots and streets, the trustees, or a majority of them, shall proceed to sell the same at public auction, for the best price that can be had, the time and place of which sale being previously advertised at the court-house of the said county on three successive court days, and convey the said lots to the purchasers in fee, subject to the condition of building on each a dwelling house sixteen feet square, with a brick or stone chimney, to be finished fit for habitation within three years from the day of sale, and pay the money arising from the sale of the said lots to the said John May and Simon Canton, or their legal representatives.

Sec. 3. The said trustees, or a majority of them, shall have power from time to time to settle and determine all disputes concerning the bounds of the lots, and to establish such rules for the regular building of houses thereon as to them shall seem best and most convenient.

Sec. 4. In case of the death, removal out of the county, or other legal disability of any one or more of the said trustees, it shall be lawful for the remaining trustees to elect others in their room; and the persons so elected shall have the same power and authority as if particularly named in this act.

Sec. 5. The purchasers of lots in the said town, so soon as they have built upon and saved the same, according to the conditions of their respective deeds of conveyance, shall then

be entitled to and have and enjoy all the rights, privileges and immunities which the freeholders and inhabitants of other towns in this state, not incorporated, hold and enjoy.

Sec. 6. If the purchaser of any lot shall fail to build thereon within the time before limited, the said trustees, or a majority of them, may thereupon enter into such lot, and sell the same again, and apply the money for the benefit of the inhabitants of the said town.

1788, CHAR. 60, PAGE 26.

*An ACT for establishing a Town in the County of Nelson.*

SECTION 1. *BE it enacted by the general assembly, That* one hundred acres of land, lying at a place called Bairdstown, in the county of Nelson, the property of David Baird and John C. Owing, to include the lots which may have been laid off, shall be, and the same are hereby vested in Isaac Morrison, Walter Beall, James Baird, John Ried, Andrew Hynes, Philip Philips, John Caldwell, Gabriel Cox, James Adams, James Morrison, and Michael Campbell, gentlemen, trustees, to be by them, or a majority of them, laid out into lots of half an acre each, with convenient streets, and established a town by the name of Bairdstown; so soon as the said one hundred acres of land shall be so laid off into lots and streets, the said trustees, or a majority of them, shall proceed to sell the said lots at public auction, for the best price that can be had, the time and place of which sale, to be previously advertised for two months, at the respective court-house doors of the counties of Jefferson and Nelson, the purchasers to hold the said lots respectively, subject to the condition of building on each, a dwelling-house, sixteen feet square, at least, with a brick or stone chimney, to be finished fit for habitation, within three years from the day of sale, and the said trustees, or a majority of them, shall convey the said lots to the purchasers in fee, subject to the conditions aforesaid, and pay the money arising from the sale thereof, to the said David Baird and John C. Owing, or their respective legal representatives. The said trustees, or the major part of them, shall have power from time to time, to settle and determine all disputes concerning the bounds of the said lots, and establish such rules and orders for the regular building of houses thereon, as to them shall seem most convenient, and in case of the death, resignation, or other legal disability of any of the said trustees, it shall be lawful for the other trustees to supply such vacant

ty, and the trustees so elected, shall be vested with the same power and authority, as those particularly named in this act. The purchasers of the lots in the said town, so soon as they shall have built upon and saved the same, according to the conditions of their respective deeds, shall then be entitled to, and have and enjoy all the rights, privileges and immunities, which the freeholders and inhabitants of other towns in this state, not incorporated, hold and enjoy. If the purchaser of any lot shall fail to build thereon within the time before limited, the said trustees, or a majority of them, may thereupon enter into such lot, and sell the same again, and apply the money for the benefit of the said town: *Provided always*, that nothing herein contained shall be construed or taken to interfere with, or affect the rights or claims of any person to lots in the said town, who have built or made improvements thereon, under agreements or contracts with the proprietors or their agents; nor shall such lots be sold by the said trustees.

1789, CHAP. 69, PAGE 36.

*An ACT to establish a Town in each of the Counties of Madison, Albemarle, and Bourbon.*

SECTION 1. *BE it enacted by the general assembly*, That fifty acres of land adjoining the court-house in the county of Madison, the property of Samuel Estill, and the representatives of John Estill deceased, shall be, and they are hereby vested in Green Clay, John Miller, William Irvine, Archibald Woods, James Barnett, George Adams, Michael M'Neeley, James French and Robert Rhodes, gentlemen, trustees, to be by them, or a majority of them, laid off into lots of half an acre each, with convenient streets, and established a town by the name of Milford.

Sec. 2. And that one hundred acres of land, the property of Bennett Henderson, lying on Rivanna river, at the place called the Shallows, in the county of Albemarle, shall be, and they are hereby vested in Wilson Cary Nicholas, Francis Walker, Edward Carter, Charles Lilburn Lewis, William Clark, Howel Lewis, and Edward Moore, gentlemen, trustees, to be by them, or a majority of them, laid off into lots of half an acre each, with convenient streets, and established a town by the name of Milton.

Sec. 3. So soon as the said lands shall respectively be laid off into lots, the trustees of each, or a majority of them, shall proceed to sell the same at public auction, for the best price

that can be had, the time and place of the sale of the lots in the town of Milford, shall be previously advertised two months in the Kentucky Gazette, the sale of the lots in the said town of Milton, shall be previously advertised two months in the Virginia Gazette; the purchasers to hold the said lots respectively, subject to the condition of building on each a dwelling-house, sixteen feet square, at least, with a brick or stone chimney, to be finished fit for habitation within three years from the day of sale, and to convey the said lots to the purchasers thereof in fee, subject to the condition aforesaid.

Sec. 4. The trustees of the said town of Milford shall pay the money arising from the sale of the said lots to the said Samuel Estill, or his legal representatives, and the representatives of the said John Estill, deceased, in such proportions as he or they shall respectively be entitled to receive the same; and the trustees of the said town of Milton shall pay the money arising from the sale of the said lots, to the said Bennett Henderson, or his legal representatives.

Sec. 5. *And be it further enacted*, That two hundred and fifty acres of land, at the court-house of the county of Bourbon, as the same are laid off into lots and streets by Lawrence Sprotsman, the proprietor thereof, shall be established a town by the name of Hopewell, and that Notley Conn, Charles Smith, jun. John Edwards, James Garrard, Edward Waller, Thomas West, James Lanier, James Little, and James Duncan, gentlemen, are hereby constituted trustees thereof.

Sec. 6. The trustees of the said town respectively, or a majority of them, are authorised to make such rules and orders for the regular building of houses thereon, as to them shall appear proper.

Sec. 7. So soon as the purchasers of lots in the said towns shall have built thereon, a house sixteen feet square, at the least, with a brick or stone chimney, such purchasers shall then be entitled to, and have and enjoy all the rights, privileges, and immunities, which the freeholders and inhabitants of other towns in this state, not incorporated, hold and enjoy.

Sec. 8. If the purchaser of any lot in the said towns of Milford or Milton, shall fail to build thereon within the time herein before limited for that purpose, the trustees of the said town where such failure shall happen, may thereupon enter into such lot, and sell the same again, and apply the money for the benefit of the inhabitants of the said town.



1790, CHAP. 47, PAGE 32.

*An ACT to amend the act which establishes the Town of Hopewell, in the County of Bourbon, and for altering the name of the said town.*

SECTION 1. WHEREAS by an act of assembly passed at the last session, intituled "an act to establish a town in each of the counties of Madison, Albemarle and Bourbon," two hundred and fifty acres of land at the court-house of the said county of Bourbon, as laid off into lots and streets by a certain Lawrence Sprotsman, the then supposed proprietor thereof, was established a town by the name of Hopewell, of which Notley Conn, Charles Smith, jun. John Edwards, James Garrard, Edward Waller, Thomas West, James Lanier, James Little, and James Duncan, gentleman, were constituted trustees: and whereas since the passing the said act, many doubts have arisen who is the real proprietor of the said two hundred and fifty acres of land, and in consequence thereof, the present holders of many of the said lots are disquieted, and the sale of the remainder thereof, thereby prevented:

Sec. 2. *Be it therefore enacted by the general assembly,* That from and after the passing of this act, the said two hundred and fifty acres of land, as laid off into lots and streets, shall be, and are hereby vested in the said Notley Conn, Charles Smith, jun. John Edwards, James Garrard, Edward Waller, Thomas West, James Lanier, James Little, and James Duncan, gentlemen, trustees, or a majority of them.

Sec. 3. The said trustees, or a majority of them, shall proceed to sell such of the said lots which now remain unsold, at public auction, for the best price that can be had, the time and place of which sale to be previously advertised two months in the Kentucky Gazette, and convey the same to the purchaser or purchasers, their heirs and assigns; subject, however, to the same rules, orders and conditions, as the said lots are subjected to by the said recited act.

Sec. 4. *And be it further enacted by the authority aforesaid,* That the said trustees shall, as soon as the said sale shall be completed, return an account thereof to the court of the said county of Bourbon, to be there recorded, and the money arising from such sale shall be retained by them for the use and benefit of the person or persons in whom the title to the said two hundred and fifty acres of land shall hereafter be established, to be paid to such person or persons or their legal representatives accordingly: *Provided nevertheless, and be it*

*further enacted*, That in case the title of the said two hundred and fifty acres of land shall hereafter be established in any other person or persons than in the said Lawrence Sprotsman, the said trustees shall, in such case, convey such of the lots as were sold by him to the purchasers thereof, in fee simple, and the purchasers or holders of such lots, shall be subject only to account with the real proprietor thereof, for the value of the same, when originally purchased as unimproved lots.

Sec. 5. *And be it further enacted*, That from and after the passing of this act, the name of the said town shall be altered, and from thenceforth the same shall be established by the name of Paris ; any law to the contrary hereof notwithstanding.

1790, CHAP. 45, SECTIONS 1, 8 & 10, PAGE 29.

*An ACT to establish several Towns.*

SECTION 1. *BE it enacted by the general assembly*, That forty in and thirty-seven out lots, as the same are now laid off, the property of Elijah Craig, lying in the county of Woodford, shall be, and the same are hereby established a town, by the name of George-Town, and that Robert Johnson, William Cave, Rodes Thompson, Toliver Craig, John Grant, Archibald Campbell, and William Henry, gentlemen, are constituted and appointed trustees thereof.

Sec. 8. The trustees of the said town, or a majority of them, are empowered to make such rules and orders for the regular building of houses therein, as to them shall seem best, and to settle and determine all disputes about the bounds of the said lots. So soon as the purchasers of lots in the said town shall have built thereon a dwelling-house, sixteen feet square, with a brick or stone chimney, such purchasers shall then be entitled to, and have and enjoy all the rights, privileges and immunities, which the freeholders and inhabitants of other towns in this state, not incorporated, hold and enjoy.

Sec 10. In case of the death, resignation, or removal out of the county, of one or more of the trustees of the said town, the vacancy thereby occasioned shall be supplied by the remaining trustees, and the person so elected, shall have the same power and authority, as if he had been particularly named in this act.

ACADEMIES.

MAY, 1780, CHAP. 21.

*An ACT to vest certain escheated Lands in the County of Kentucky in Trustees for a public School.*

WHEREAS it is represented to the general assembly, that there are certain lands within the county of Kentucky, formerly belonging to British subjects, not yet sold under the law of escheats and forfeitures, which might at a future day be a valuable fund for the maintenance and education of youth, and it being the interest of this commonwealth always to promote and encourage every design which may tend to the improvement of the mind and the diffusion of useful knowledge, even among its most remote citizens, whose situation a barbarous neighborhood and a savage intercourse might otherwise render unfriendly to science :

*Be it therefore enacted*, That eight thousand acres of land, within the said county of Kentucky, late the property of Robert M'Kenzie, Henry Collins, and Alexander M'Kie, be, and the same are hereby vested in William Fleming, William Christian, John Todd, Stephen Trigg, Benjamin Logan, John Floyd, John May, Levi Todd, John Cowan, George Meriwether, John Cobbs, George Thompson, and Edmund Taylor, trustees, as a free donation from this commonwealth for the purpose of a public school, or seminary of learning, to be erected within the said county as soon as the circumstances of the county and state of its funds will admit, and for no other use or purpose whatsoever : saving and reserving to the said Robert M'Kenzie, Henry Collins, and Alexander M'Kie, and every of them, and all and every person or persons claiming under them, or either of them, all right and interest to the above mentioned lands, or any part thereof to which they may be by law entitled, and of which they shall in due time avail themselves, any thing herein contained to the contrary notwithstanding.

MAY, 1783, CHAP. 36.

*An ACT to amend an act entitled " an act to vest certain escheated Lands in the County of Kentucky in Trustees for a public School.*

SECTION 1. WHEREAS by an act of assembly, entitled " an act to vest certain escheated lands in the county of Ken-

tucky in trustees for the purpose of a public school," eight thousand acres of escheated lands were vested in certain trustees therein named, as a free donation from this commonwealth for the purpose of a public school, or seminary of learning, to be erected within the said county, now called the district of Kentucky, as soon as the circumstances of the county and state of its funds will admit; and whereas it hath been represented to this general assembly, that voluntary contributions might be obtained from individuals in aid to the public donations, were the number of the aforesaid trustees, now alive and willing to act, increased, and such powers and privileges granted them by an act of incorporation as are requisite for carrying into effect the intentions of the legislature in the said act more fully recited:

Sec. 2. *Be it therefore enacted*, That William Fleming, William Christian, Benjamin Logan, John May, Levi Todd, John Cowan, Edmund Taylor, Thomas Marshall, Samuel M'Dowell, John Bowman, George Rogers Clark, John Campbell, Isaac Shelby, David Rice, John Edwards, Caleb Wallace, Walker Daniel, Isaac Cox, Robert Johnston, John Craig, John Mosby, James Speed, Christopher Greenup, John Crittendon, and Willis Green, are hereby constituted a body corporate and politic, to be known by the name of the trustees of the Transylvania seminary, and by that name shall have perpetual succession, and a common seal, with power to break, change and renew their said seal at pleasure, and to exercise all the other powers and privileges that are enjoyed by the visitors and governors of any college or university within this state not herein limited or otherwise directed.

Sec. 3. *And be it further enacted*, That the said eight thousand acres of escheated lands in the district of Kentucky, late the property of Robert M'Kenzie, Henry Collins, and Alexander M'Kee, be hereafter held, and the same is hereby vested in the before named trustees and their successors, for the purposes and under the reservation in the said act expressed.

Sec. 4. *And be it further enacted*, That the before named trustees and their successors, by the name of the trustees of the Transylvania seminary, shall be able and capable in law to take, hold, purchase, receive and retain to them and their successors forever, any lands, tenements, rents, good or chattels of what kind soever, which shall be given or devised to, or purchased by them for the use of the said seminary, and the same or any part thereof to lease, sell, alien, grant or dispose of in such manner as to them may appear most for the

advantage of the said seminary: *Provided*, that no lands given by the commonwealth shall ever be sold without special leave first obtained from the legislature; and also from time to time to establish such by-laws, rules and ordinances, not contrary to the constitution or laws of the commonwealth, as by them shall be thought necessary for the good order and government of the said seminary. The said trustees, before they enter upon the execution of the trust reposed in them, shall severally take the usual oath of fidelity to government, and also the following oath of office, to be administered by either of the judges of the supreme court of the district of Kentucky to the trustee then present that stands first in the nomination, and by him to the other trustees, that is to say: "I, A. B. do swear (or affirm) that I will, to the best of my skill and judgment, faithfully and truly discharge the duties of a trustee, required of me by an act entitled "an act to amend an act entitled an act to vest certain escheated lands in the county of Kentucky in trustees for a public school," without favor, affection or partiality—So help me God." And the same oath of fidelity, and a similar oath of office, shall be administered by the board of trustees, to the president, professors and masters of the said seminary, and also their treasurer and clerk. And as a testimony that the general assembly are solicitous for the good education of youth in every part of the community, and at all times disposed to give every assistance to seminaries of learning that may comport with the state of the public funds:

Sec. 5. *Be it enacted*, That twenty thousand acres of land, belonging to the said Transylvania seminary, if so much shall at any time be obtained for its use, shall forever be exempted from all public taxes; and any greater quantity belonging to the same, shall likewise be exempted from taxation until the first day of January which shall be in the year of our lord one thousand seven hundred and ninety-five, any law to the contrary notwithstanding. And all the professors, masters and students enrolled in the said seminary, so long as they continue to reside therein, shall be exempted from militia duty; and all lands within the said district, the whole amount of which does not exceed twelve thousand acres, that now are or hereafter may become escheatable to the commonwealth, shall, when escheated, be vested in the said trustees and their successors as a free donation from the commonwealth for the use of the said seminary; and upon paying the office fees, and other charges accruing thereupon, a title shall pass to the said

trustees as if such lands had been purchased by them at their full value. *Provided*, this donation shall not be construed to extend to any lands belonging to real British subjects or others so as to contravene the treaty of peace between Great Britain and the United States of America, nor ever exceed in the whole amount the aforesaid quantity of twelve thousand acres.

Sec. 6. *And be it further enacted*, That the before named trustees and their successors, are empowered at any convenient place or places within the said district of Kentucky, to erect, repair, enlarge and furnish such buildings for the use of the said seminary; and to elect by ballot a president, treasurer and clerk, and so many professors and masters as may be necessary; also to transact and accomplish any lawful matter or thing whatsoever, which they shall judge most conducive to the end of the institution, and consistent with the state of its funds. The president, and other officers aforesaid, shall have fixed salaries appointed them, and continue in office during good behavior, and they shall be ineligible as trustees while they continue in office; but upon invitation or leave given by the board of trustees, the president or any of the professors may attend and debate upon any question under their deliberation.

Sec. 7. *And be it further enacted*, That the first session of the said trustees shall be held at John Crow's station, in Lincoln county, on the second Monday in November next; and thereafter they shall hold two stated sessions in every year, at any convenient place in the said district to which they shall adjourn, to commence on the second Mondays in April and October, until these stated times are altered by the concurrence of not less than thirteen of the said trustees. The said trustees so met, or any five of them, if more do not attend, shall have power to adjourn to the next stated session, or to any shorter time; and in cases of emergency, the chairman, with the advice, or at the request of any five of the trustees, shall also have power to call a meeting of the board, to be held at the place to which their last adjournment was made. And if any one of the said trustees shall absent himself from three of their stated sessions successively, he shall be considered as having vacated his seat, and at their next stated session another trustee shall be elected to serve in his stead, unless the board shall then be well assured that the causes of such absence are removed.

Sec. 8. *And be it further enacted*, That not less than thirteen of the said trustees shall constitute a board to determine upon any matter relating to the said seminary, and in fixing upon the place for establishing the seminary, forming the constitution thereof, electing the president and professors, and ascertaining their salaries ; as also in the disposal of any lands belonging thereto, thirteen of the members shall concur in opinion thereupon : *Provided always*, that no land or other property that may hereafter be vested in the said trustees, as an unalienable endowment to the said seminary, shall ever be sold or otherwise transferred from the special purpose to which it was appropriated by the donor.

Sec. 9. *And be it further enacted*, That the treasurer, first giving bond and security for such sum as the trustees shall direct, payable to the chairman for the time being, and conditioned for the faithful discharge of his trust, shall receive all monies accruing to the said seminary, and other property sent to his care, and pay or deliver the same to the order of the board of trustees, signed by the clerk, and countersigned by their chairman ; and when thereunto required by the board, shall render an account of all such monies, goods, and chattels, to him committed, and on failure or refusal, upon motion made to the county court in which he resides, after ten days previous notice given him by the said trustees, he shall be subject to the like proceedings as at the time may be lawfully had against sheriffs failing to account for and pay their public collections.

Sec. 10. *And be it further enacted*, That the said trustees shall, once at their stated session in every year, and again on any convenient time, either on or before their second stated session in the same year, in the presence of as many gentlemen of liberal education as may choose to attend, cause all the students in the said seminary to be carefully examined by the professors and masters of the same, on the several branches of learning which they have respectively studied, that the fidelity of the teachers, and the diligence of their pupils may appear ; at the second stated session aforesaid, the president, in open assembly, shall, as has been accustomed in like cases, confer by diploma, signed by the president and five of the trustees, the degrees of batchelor or master of arts, upon all such students, if such there be, as the said trustees, with the concurrence of a majority of the professors shall adjudge to have merited the honors of the seminary, by their virtue and erudition ; and at the same time confer any honorary degrees,

which, with the like advice, shall be adjudged to other gentlemen, on account of special merit.

Sec. 11. *And be it further enacted*, That upon the death, resignation, or other legal disability of any of the said trustees, it shall be lawful for a majority of the remaining trustees at their next or any succeeding stated session, to supply such vacancies by ballot, and thereby keep up a succession until the mode of electing trustees shall be otherwise directed by law : *Provided always*, when there is not a majority of votes in favor of any one of the candidates, a ballot shall then be taken between the two that have the greatest number, which shall determine the election of one trustee ; and in like manner they shall continue to proceed by ballot, until the several vacancies are supplied.

Sec. 12. *Provided always, and be it further enacted*, That the said trustees shall, at all times, be accountable for their transactions touching any matter or thing relating to the said seminary, in such manner as the legislature shall direct.

1787, CHAP. 96, PAGE 47.

*An ACT appropriating one-sixth of the Surveyors' Fees in the Kentucky District, to the use of the Transylvania Seminary.*

SECTION 1. *BE it enacted by the general assembly*, That the one-sixth of the surveyors' fees hereafter arising within that part of this commonwealth called and known by the name of the Kentucky District, instead of being paid to the professors of William and Mary college, shall be paid by the surveyors thereof, to the trustees of the Transylvania seminary, to be by them applied to the use of the said seminary, to be accounted for by the surveyors within the said district, and recovered by the said trustees in like manner as they were accounted for and recovered by the said professors ; any law, usage or custom to the contrary notwithstanding.

1790, CHAP. 28, PAGE 19.

*An ACT concerning the Trustees of the Transylvania Seminary.*

WHEREAS it hath been represented to this present general assembly, by the trustees of the Transylvania seminary, that great inconveniencies frequently arise from the number of members required by law to constitute a board to transact



business, as they are so widely dispersed in the district of Kentucky: for remedy whereof,

*Be it enacted by the general assembly,* That from and after the passing of this act, seven members shall be sufficient to constitute a board to transact business at the two annual stated meetings, as fixed by law.

1790, CHAP. 52, PAGE 34.

*An ACT to amend an act, intituled "an act appropriating one-sixth part of the Surveyors' Fees in the District of Kentucky, to the use of the Transylvania Seminary, and for other purposes."*

SECTION 1. *BE it enacted by the general assembly,* That the principal surveyors of the several counties within the district of Kentucky, now in office, and the principal surveyors of the lands granted by law to the officers and soldiers on continental and state establishments, shall, in one month after requisition made by the trustees of the Transylvania seminary, give bond and sufficient security in a reasonable sum, for the annual payment to the said trustees, of one-sixth of the fees which shall become due to them after the first day of January, one thousand seven hundred and ninety-one; and in case any of the said surveyors shall fail or refuse to give such bond and security, he or they shall forfeit and pay to the said trustees, for the use of the said seminary, the sum of one hundred pounds annually, until he or they shall give such bond and security.

Sec. 2. *And be it further enacted,* That no surveyor hereafter appointed within the said district, shall be admitted to take his oath of office without having first produced to the court a certificate from the trustees aforesaid, or their agent, that he has given bond and security to them for the due payment of one-sixth of all his fees, and if any court shall suffer or permit any surveyor to take such oath without such certificate, the justices composing the court, shall each forfeit and pay to the said trustees the sum of twenty pounds, and the surveyor the sum of one hundred pounds, and the surveyor shall moreover forfeit and pay the like sum of one hundred pounds annually, until he gives such bond and security.

Sec. 3. *And be it further enacted,* That the surveyors aforesaid shall account for and pay to the said trustees, in the month of September annually, the respective sums due by them for the former year.

Sec. 4. *And be it further enacted*, That it shall be lawful for the trustees aforesaid, after two months demand made of the said surveyors, and on either of their failure or neglect to pay the same, to recover of the surveyors so failing or neglecting, whatever may be due from them since the act appropriating the sixth of the surveyors' fees in the Kentucky district, to the use of the Transylvania seminary, has been in force.

Sec. 5. *And be it further enacted*, That the several surveyors aforesaid shall annually in the month of March make return on oath to the chairman, or to the treasurer of the board of trustees, of all the fees received by and due to him for the former year, or be subject to the payment of the penalty of one hundred pounds to them, for his failure or neglect.

Sec. 6. And whereas the present method of examining principal surveyors, is extremely inconvenient to those residing in the district of Kentucky : *Be it therefore enacted*, That hereafter it shall be lawful for the board of trustees of the Transylvania seminary, to appoint three or more of their own body, or some other fit persons to examine those recommended by the county courts of the said district as proper persons to execute the office of surveyor, and if found qualified, to certify the same to the governor, which shall be as effectual in law, as the mode heretofore practised.

Sec. 7. All penalties incurred, or other monies directed to be paid by this act, shall and may be recovered by the said trustees for the use of the said seminary, with costs, by motion in the supreme court of the Kentucky district, or in any of the county courts : *Provided*, ten days previous notice of such motion hath been given.

Sec. 8. *And be it further enacted*, That so much of any act or acts as comes within the purview of this act, shall be, and the same is hereby repealed.

Sec. 9. And whereas the directors of the public buildings have hitherto rented out a house standing on the public ground as a school-house, and it would be an encouragement to the said school, if the said house was suffered to be held for that purpose free of rent : *Be it therefore enacted*, That from and after the first day of January next, the said directors may suffer the said house to be occupied for a school, free of rent, so long as the public shall have no use for the same.

1791, CHAP. 50, PAGE 22.

*An ACT to amend an act intituled "an act to amend an act entitled an act appropriating one-sixth part of the Surveyors' Fees in the District of Kentucky, to the use of the Transylvania Seminary, and for other purposes."*

SECTION 1. WHEREAS by an act of the last session, intituled "an act to amend an act entitled an act appropriating one-sixth part of the surveyors' fees in the district of Kentucky, to the use of the Transylvania seminary, and for other purposes," the surveyors of the said district then in office, were directed and required to account for and pay one-sixth of the fees received by them annually, to the trustees of the Transylvania seminary: and whereas it is represented that several surveyors of the said district had resigned their offices before the passing of the said act, and cannot therefore be brought to account for and pay the one-sixth of the fees accruing by virtue of their office: for remedy whereof, *Be it therefore enacted*, That all those surveyors in the said district, who were in office at the time of passing the act intituled "an act appropriating one-sixth part of the surveyors' fees in the district of Kentucky, to the use of the Transylvania seminary, and for other purposes," which passed on the nineteenth day of December, one thousand seven hundred and eighty-seven, or came into office thereafter, and resigned before the twentieth day of December, one thousand seven hundred and ninety, when the first recited act passed, shall account for and pay the one-sixth part of the fees which became due to them whilst in office, in like manner, and subject to the same penalties and recovery, as is directed and prescribed by the first recited act.

Sec. 2. This act shall be in force from and after the passing thereof.

1788, CHAP. 18, PAGE 12.

*An ACT for incorporating an Academy in the County of Nelson.*

SECTION 1. WHEREAS it is represented to this present general assembly, that many persons would make considerable donations to the seminary of learning at the place called Bairdstown, in the county of Nelson, was a law to pass for incorporating the same: *Be it therefore enacted*, That from and after the passing of this act, the said seminary shall ob-

tain the name of Salem Academy, and that John Caldwell, Andrew Hynes, Isaac Morrison, Tarah Templin, Matthew Walton, John Steele, Philip Philips, Walter Beall, George Harrison, James Baird, Joseph Barnet, James Morrison, James Allen, Cuthbert Harrison, and William Taylor, gentlemen, be, and they are hereby constituted a body politic and corporate, by the name of the trustees of Salem academy, and shall have perpetual succession and a common seal, and shall have power and capacity to purchase, receive and possess lands and tenements, goods and chattels, either in fee or any lesser estate therein, and the same to grant, let, sell, or assign, and to plead or be impleaded, prosecute and defend, all causes in law or equity.

Sec. 2. The said trustees, or a majority of them, when assembled, shall have power to make such by-laws and ordinances as they shall think best for the good government of the said academy, and to perform and do any thing respecting the property vested therein: *Provided*, such by-laws and ordinances shall not be contrary to the laws and constitution of this commonwealth.

Sec. 3. They shall choose a president and secretary out of their own body; and in case of vacancy by death, or otherwise, of any one or more of the said trustees, the same shall be supplied by a majority of the remaining trustees.

---

## INSPECTIONS.

OCTOBER, 1783, CHAP. 28, CHAN. REV. PAGE 217.

*An ACT for establishing Inspections of Tobacco on the Western Waters, at Portsmouth, in the County of Norfolk, and at Gibson's, in the County of King George.*

SECTION 1. WHEREAS it is represented to this present general assembly, that the erection of warehouses for the inspection of tobacco, in the county of Lincoln, on Kentucky river, at the mouth of Hickman's creek, on the lands of James Hogan; also in the county of Jefferson, at the falls of the Ohio river, on the lands of John Campbell; also in the county of Fayette, at Leestown, on the Kentucky river, on the lands of Hancock Lee; in the county of Norfolk, on the

public lands in the town of Portsmouth; and also in the county of King George, on the lot of land belonging to John Gravette and William Shropshire, will be of public benefit: *Be it therefore enacted*, that the said inspections of tobacco shall be, and they are hereby established at the places aforesaid, that is to say: the inspection in the county of Lincoln, shall be called and known by the name of Hickman's; the inspection in the county of Jefferson, shall be called and known by the name of Campbell's; the inspection in the county of Fayette, shall be called and known by the name of Lee's; in the county of Norfolk, shall be called Portsmouth; and the inspection in the county of King George, shall be called and known by the name of Gibson's. And the courts of the said counties shall observe the same rules and regulations, in erecting the said warehouses, and recommending of inspectors, as are prescribed by the act entitled "an act to amend and reduce the several acts of assembly for the inspection of tobacco into one act;" and that the transfer notes issued by the inspectors at the warehouses in the said counties of Lincoln, Jefferson, and Fayette, shall be payable in the said counties for all county and parish levies, and also all clerks, sheriffs, and other officers' fees, within the same; and the transfer notes issued by the inspectors at Gibson's warehouse, shall be payable in like manner as those formerly issued by the inspectors at Gibson's warehouse in the said county of King George.

*Sec. 2. And be it further enacted*, That the acting inspectors attending the said warehouses, shall be entitled to and receive the following salaries, that is to say: at Hickman's warehouse, the sum of twenty-five pounds each; the inspectors at Campbell's warehouse, the sum of twenty-five pounds each; at Lee's warehouse, the sum of twenty-five pounds each; at Portsmouth, thirty pounds each; and at Gibson's warehouse, the sum of thirty pounds each. And the surplus money remaining in their hands, after paying their wages and other contingent charges of the warehouses, shall be accounted for in the same manner as is directed by the said recited act.

*Sec. 3. And be it enacted*, That for all tobacco which shall be delivered out of the warehouses aforesaid, there shall be paid to the inspector, by the person demanding the same, ten shillings for every hogshead so delivered, and one shilling and three pence for every hundred weight which may be put up in any lesser package; which money shall be the fund for payment of the inspectors' salaries, as well as for supporting the respective warehouses.

1787, CHAP. 49, SECT. 1.

*An ACT for establishing several new Inspections of Tobacco, and reviving and establishing others.*

SECTION 1. *BE it enacted by the general assembly, That the warehouses for the reception and inspection of tobacco, shall be, and the same are hereby established on the lands of Walter Beall, on Kentucky river, near Harrod's landing, in the county of Mercer, to be called and known by the name of Harrod's landing; on the lands of James Hogan, at the mouth of Hickman's creek, on the north side of Kentucky river, in the county of Fayette, to be called and known by the name of Hogan's; on the lands of Walter Beall, at the mouth of Beech fork, on Salt river, in the county of Nelson, to be called and known by the name of Beall's; on the lands of general Charles Scott, near the mouth of Craig's creek, on Kentucky river, in the county of Fayette, to be called and known by the name of Scott's; in the town of Boonsborough, on Kentucky river, in the county of Madison, to be called and known by the name of Boone's; on the lands of John Collier, on the Kentucky river, in the county of Madison, to be called and known by the name of Collier's; on the lands of John May and Simon Canton, on the lower side of Limestone creek, in the county of Bourbon, to be called and known by the name of Limestone. There shall be allowed and paid annually to each of the inspectors at Harrod's landing warehouse, the sum of twenty-five pounds; to each of the inspectors at Hogan's warehouse, the sum of twenty-five pounds; to each of the inspectors at Beall's warehouse, the sum of twenty five pounds; to each of the inspectors at Boone's warehouse and Collier's warehouse, under one inspection, the sum of twenty-five pounds; to each of the inspectors at Scott's warehouse, the sum of twenty-five pounds; to each of the inspectors at Limestone warehouse, the sum of twenty-five pounds; for their salaries. Provided always, and be it further enacted, that if the quantity of tobacco inspected at any of the said warehouses hereby established or revived, shall not be sufficient to pay the usual charges and inspectors' salaries, the deficiency shall not be paid by the public.*

1788, CHAP. 19, PAGE 12.

*An ACT for establishing an Inspection of Tobacco, on the Lands of Isaac Ruddle, in the County of Bourbon.*

SECTION 1. *BE it enacted by the general assembly, That an inspection of tobacco shall be, and the same is hereby es-*

tablished on the lands of Isaac Ruddie, at the confluence of Stoner's and Hinkston's forks of Licking creek, in the county of Bourbon, to be called and known by the name of Ruddie's warehouse.

Sec. 2. *And be it further enacted*, That it shall not be lawful for the said Isaac Ruddie, or any other person, to build any dwelling-house, or other house, in which fire shall be at any time used, within fifty yards of the said warehouse.

Sec. 3. There shall be allowed and paid annually to each of the inspectors at the said warehouse, the sum of thirty pounds for their salary. *Provided always*, that if the quantity of tobacco inspected at the said warehouse shall not be sufficient to pay the usual charges and inspectors' salaries, the deficiency shall not be paid by the public.

Sec. 4. The court of the county of Bourbon, shall, as soon as the said warehouses are built, nominate four persons to execute the office of inspectors at the said warehouse, two of whom shall be commissioned as inspectors, and a third as additional inspector, in like manner as the inspectors at other warehouses within this commonwealth. The said inspectors shall enter into the same bonds, be subject to the penalties, and in all respects be governed by the rules and regulations prescribed by the laws now in force for regulating the inspection of tobacco and the exportation thereof.

1789, CHAP. 31, PAGE 18.

*An ACT for establishing certain Inspections of Tobacco.*

SECTION 1. *BE it enacted by the general assembly*, That inspections of tobacco shall be, and the same are hereby established on the lands of Matthew Walton, on the south side of Salt river, at the first yellow bank below the mouth of Long Lick creek, in the county of Nelson, to be called and known by the name of Walton's warehouse; on the lands of Richard Parker, on the Beech fork, at the mouth of Cartwright's creek, in the county of Nelson, to be called and known by the name of Parker's warehouse; on the lands of John Cockey Owen and David Baird, at or near the mouth of Stuart's creek, on the north side of the Beech fork, in the county of Nelson, to be called and known by the name of Stuart's creek warehouse; the proprietors whereof shall build the same at their own expense. There shall be allowed and paid annually to each of the inspectors at Walton's warehouse, the sum of twenty-five pounds; to each of the inspectors at Parker's

warehouse, the sum of twenty-five pounds ; to each of the inspectors at Stuart's creek warehouse, the sum of twenty-five pounds : *Provided always*, that if the quantity of tobacco inspected at the said warehouses, shall not be sufficient to pay the usual charges and the inspectors' salaries, the deficiency shall not be paid by the public. It shall not be lawful for the proprietor of the land whereon an inspection of tobacco is hereby established, or those hereafter claiming under them, to build or suffer to be built, any house with a fire-place therein, on his or their land, within one hundred yards of such warehouse.

1790, CHAP. 36, PAGE 22.

*BE it enacted by the general assembly*, That an inspection of tobacco shall be, and is hereby established at the following place, to wit : on the lots of Lawrence Sprotsman, in the town of Paris, in the county of Bourbon, to be called and known by the name of Bourbon warehouse. There shall be allowed and paid annually to each of the inspectors at Bourbon warehouse, the sum of twenty pounds : *Provided always*, That if the quantity of tobacco inspected at the said warehouse shall not be sufficient to pay the usual charges and the inspectors' salaries, the deficiency shall not be paid by the public.

1791, CHAP. 30, PAGE 15.

*An ACT to establish an Inspection of Tobacco in the County of Woodford.*

SECTION 1. *BE it enacted by the general assembly*, That an inspection of tobacco shall be, and the same is hereby established on the lands of James Wilkinson, at Frankfort, in the county of Woodford, to be called and known by the name of Frankfort warehouse ; the proprietor whereof shall build the same at his own expense.

Sec. 2. There shall be allowed and paid annually to each of the inspectors at the said warehouse, the sum of twenty-five pounds, for their salary.

Sec. 3. If the quantity of tobacco inspected at the said warehouse shall not be sufficient to pay the usual charges and the inspectors' salaries, the deficiency shall not be paid by the public.

Sec. 4. This act shall commence and be in force on the first day of January next.

An inspection of flour and bread was established at Louisville, in 1787 ; but no reason for re-printing the act has suggested itself. It is a long act, establishing a number of inspections—Louisville is mentioned only once in it.



## FERRIES.

OCTOBER, 1779, CHAP. 35, SEC. 1, CHAN. REV. PAGE 116.

*An ACT for establishing several new Ferries, and for other purposes.*

WHEREAS it is represented to this present general assembly, that public ferries at the places hereafter mentioned, will be of great advantage to travellers and others: *Be it therefore enacted*, that public ferries be constantly kept at the following places, and the rates for passing the same shall be as follows, that is to say: From the land of Edward West, in the county of Stafford, across the north fork of Rappahannock river, to the land of Simon Miller, in the county of Culpeper, the price for a man one shilling, and for a horse the same; from the land of Gawin Lawson, in the county of Stafford, across Rappahannock river, to the land of Fielding Lewis, in the county of Spotsylvania, the price for a man one shilling and six pence, and for a horse the same; at the town of Boonsborough, in the county of Kentucky, across Kentucky river, to the land on the opposite shore, the price for a man three shillings, and for a horse the same; the keeping of which last mentioned ferry, and emoluments arising therefrom, are hereby given and granted to Richard Callaway, his heirs or assigns, so long as he or they shall well and faithfully keep the same according to the directions of this act; and for the transportation of wheel carriages, tobacco, cattle, and other beasts, at the places aforesaid, the ferry-keeper may demand and take the following rates, that is to say: for every coach, chariot, or waggon, and the driver thereof, the same as for six horses; for every cart, or four wheel chaise, and the driver thereof, the same as for four horses; for every two wheel chaise, or chair, the same as for two horses; for every hogshead of tobacco, as for one horse; for every head of neat cattle, as for one horse; for every sheep, goat, or lamb, one fifth part of the ferriage for one horse; and for every hog, one fourth part of the ferriage for one horse, and no more. And if any ferry-keeper shall presume to demand or receive, from any person or persons whatsoever, any greater rates than is hereby allowed for the carriage or ferriage of any thing whatsoever, he shall, for every such offence, forfeit and pay to the party grieved, the ferriages demanded or received, and ten shillings, to be recovered with costs before a justice of peace of the county where such offence shall be committed.

1785, CHAP. 33, PAGE 26.

*An ACT for establishing several new Ferries.*

*BE it enacted by the general assembly,* That public ferries shall be constantly kept at the following places, and the rates for passing the same be as followeth, that is to say : From the land of James Hogan, in the county of Lincoln, across the Kentucky river, at the mouth of Hickman's creek, to his lands on the opposite shore, in the county of Fayette, for a man four pence, and for a horse the same ; from the land of David Crews, in the county of Lincoln, across the Kentucky river, at the mouth of Jack's creek, to the opposite shore, in the county of Fayette, for a man four pence, and for a horse the same ; from the land of William Steele, in the county of Fayette, across Kentucky river, at the place called Stone Lick, to the land of John Craig, in the county of Lincoln, for a man four pence, and for a horse the same ; from the land of John Campbell, in the county of Jefferson, across the Ohio river, to the mouth of Silver creek, for a man one shilling, and for a horse the same ; from the said land across the Ohio river, to the mouth of Mill run, for a man nine pence, and for a horse the same ; and for the transportation of wheel carriages, tobacco, cattle, and other beasts, at the places aforesaid, the ferry-keepers may respectively demand and take the same rates as by law are established at other ferries. If any ferry-keeper shall demand or receive from any person or persons whatsoever, any greater rates than are hereby allowed, for the ferryage or carriage of any thing, he shall, for every such offence, forfeit and pay to the party grieved the ferryages demanded or received, and ten shillings, to be recovered with costs before a justice of the peace of the county where the offence shall be committed.

1786, CHAP. 106, PAGE 52.

*An ACT to establish a Public Ferry, a Town, and an Inspection of Tobacco, on the Lands of John Curd, in the County of Mercer.*—(Vide ante, page 559.)

1791, CHAP. 43, PAGE 19.

*BE it enacted by the general assembly,* That a public ferry shall be constantly kept from the land of Joseph Martin, in the county of Lincoln, across Cumberland river, to the land on the opposite shore, claimed by William Hord, the price

for a man, one shilling and six pence, and for a horse, the same. And for the transportation of wheel carriages, tobacco, cattle, and other beasts, at the place aforesaid, the ferry keeper may demand and take the following rates, to wit: for every coach, chariot or waggon, and the driver thereof, the same as for six horses; for every cart, or four wheel chaise, and the driver thereof, the same as for four horses; for every two wheel chaise or chair, as for two horses; for every hog-head of tobacco, as for one horse; for every head of neat cattle, as for one horse; for every sheep, goat, lamb or hog, one-fifth part of the ferriage for one horse, and no more. If the ferry-keeper shall demand and receive from any person or persons whatsoever, any greater rates than are hereby allowed for the ferriage or carriage of any thing, he shall, for every such offence, forfeit and pay to the party grieved, the ferriages demanded and received, and ten shillings, to be recovered with costs, before a justice of the peace of the county where the offence shall be committed.

---

## SPECIAL GRANT OF LAND.

OCTOBER 1778, CHAP. 33.

*An ACT to vest certain Lands on the Ohio and Green Rivers, in fee simple, in Richard Henderson and Company, and their heirs.*

WHEREAS it has appeared to this assembly, that Richard Henderson, and company, have been at very great expense in making a purchase of the Cherokee Indians, and although the same has been declared void, yet, as this commonwealth is likely to receive great advantage therefrom, by increasing its inhabitants, and establishing a barrier against the Indians, it is therefore just and reasonable the said Richard Henderson, and company, be made a compensation for their trouble and expense:

*Be it enacted by the general assembly,* That all that tract of land situate, lying and being on the waters of the Ohio and Green rivers, bounded as follows, to wit: beginning at the mouth of Green river; thence running up the same twelve and a half miles, when reduced to a straight line; thence run-

ning at right angles with the said reduced lines twelve and a half miles on each side the said river ; thence running lines from the termination of the line extended on each side the said Green river, at right angles with the same, till the said lines intersect the Ohio, which said river Ohio shall be the western boundary of the said tract, be, and the same is hereby granted the said Richard Henderson, and company, and their heirs, as tenants in common, subject to the payment of the same taxes as other lands in this commonwealth are, but under such limitation of time, as to the settling the said lands, as shall be hereafter directed by the genetal assembly ; but this grant shall, and it is hereby declared to be in full compensation to the said Richard Henderson, and company, and their heirs, for their charge and trouble, and for all advantage accruing therefrom to this commonwealth ; and they are hereby excluded from any further claim to lands, on account of any settlement or improvements heretofore made by them, or any of them, on the lands so as aforesaid purchased from the Cherokee Indians.

# INDEX

OF

## PUBLIC AND PRACTICAL LAW.

### VOLUME III.

#### A.

##### ABSENT DEFENDANTS.

1803.  
The order of publication against absent  
defendants need not be set up at the  
court-house door nor published on  
Sunday, 108

##### ACADEMIES.

1802.  
1. Further time of three years given to  
trustees of academies and county courts  
acting as trustees, to locate the dona-  
tion lands, 36  
1804.  
2. Trustees of academies authorized to  
sell part of their donation lands for  
certain purposes, 206  
1805.  
3. Six thousand acres of land allowed to  
every county formed since the passage  
of the act of 1798, 280  
1806.  
4. County courts where academies have  
not been established, but to whom ap-  
propriations of land have been made,  
may sell one half of the land for par-  
ticular purposes, 334  
1807-8.  
5. Further time of ten years given to  
the trustees of counties to comply  
with the requisitions of the act of  
1798, in establishing schools, 525  
6. Academies established in every coun-  
ty in which they have not been estab-  
lished, 440  
7. County courts authorized to locate  
lands, 440

8. County courts to appoint trustees, 440  
9. Powers and privileges of trustees, 440  
10. Entries and surveys made by county  
courts to be legal, 441  
11. Military claims and the land acqui-  
red by the treaty of Tellico, reserved, 441  
12. Further powers of county courts, 441

##### ACTIONS, LIMITATION OF.

See limitations of actions.

##### AGENT OF THE PENITENTIARY.

See penitentiary, No. 27.

##### ALIMONY FOR WIFE OF CONVICT.

See penitentiary, No. 18.

##### AMENDMENTS IN CHANCERY.

See conveyance and division of lands,  
No. 6.

##### ARSON.

1806.  
Burning the penitentiary house punisha-  
ble with death, 402

##### APPEALS.

See court of appeals and writs of error.  
Not allowed on conviction of riot, &c.  
—Penal laws, No. 38.

##### ASSEMBLY, GENERAL.

See general assembly.

##### ATTACHMENTS.

See constables, No. 19.  
Proceedings in attachments before justi-  
ces of the peace, 239

##### ATTORNEYS FOR THE COMMON- WEALTH.

1803.  
1. An act making provision for them, 146

1804.  
2. The act of last session continued for one year, 235  
1805.  
3. The act of 1803 continued for one year, 318  
1806.  
4. The act of 1803 continued, 404
- ATTORNEYS.  
1804.  
1. Attornies liable to clients injured, for what, and how, 215  
2. Manner of recovery, 215  
3. For want of counsel, how prosecution to be conducted, 215  
4. In cases of appeal, attorney-general to prosecute, 215  
5. Court to assign counsel, if the attorney-general be a party, 215  
6. Legal fee allowed, and how paid, 216  
7. In what case attorney to re-pay fees, 216  
8. In case of failure, the party to recover, 216  
9. Where, and how recoverable, if the fee exceed five pounds, 216  
10. If under that sum, 216  
11. No replevin shall be allowed in such execution, 216  
1805.  
12. Justices of the peace and clerks prohibited from practising as attornies in the courts to which they belong, 304  
13. Penalty for so doing, and how recoverable, 305  
1807-8.  
14. Attornies from the Indiana territory, prohibited from practising in this state, 508  
15. Penalty for so doing, and mode of recovery, 508
- AUDITOR AND TREASURER.  
1807-8.  
1. The governor to fill the office of treasurer becoming vacant in the recess of the legislature, 529  
2. Treasurer appointed pro tem. to enter into bond with security, 529  
3. Governor to appoint commissioners to settle the accounts of a treasurer deceased, resigned or removed, 529  
4. Duty of the commissioners, 529  
5. To deliver a statement of the settlement, &c. to the auditor, who shall file the same. 529

## B.

BAIL IN CIVIL CASES.  
See circuit courts, No. 56.

## BAIL IN CRIMINAL PROSECUTIONS.

See penal laws, No. 40, and criminal proceedings.

## BANK.

See state bank, *passim*.

## BEEF AND PORK.

1806.  
All acts establishing inspections of beef and pork *repealed*, 329

## BLANK WARRANTS.

See magistrates, No. 2.

## BONDS, FORTHCOMING AND REPLEVIN.

See writs of error.

## BREAKING PRISON.

See prison breaking and penal laws.

## BOUNDARY OF THE STATE.

1802.  
The act for ascertaining the boundary line between this state and Tennessee, *repealed*, 321

## C.

## CANAL, OHIO.

See Ohio canal.

## CERTIFICATES.

See plats and certificates.

## CHANCERY.

- 1807-8.  
1. Subpœna not to issue until the bill is filed, 498  
2. Proceedings on a subpœna returned executed, 498  
3. No appeal or writ of error shall be sustained on the dissolution of an injunction on motion, 498  
4. One or more judges of the court of appeals may reinstate an injunction improperly dissolved, 498

## CHANGE OF VENUE.

See venue, change of.

## CIRCUIT COURTS.

1802.  
1. District courts and general court abolished, 37  
2. Circuit courts established, 37  
3. Circuits laid off, 37  
4. Terms of the courts, and their duration, 38  
When to be held, 38  
5. County courts, when to be held, 40  
6. Jurisdiction of circuit courts, 40  
7. Rules and regulations, 40  
8. Number of judges to constitute court, 40

|                                                                                                           |    |                                                                                        |    |
|-----------------------------------------------------------------------------------------------------------|----|----------------------------------------------------------------------------------------|----|
| 9. Regulations as to criminal cases,                                                                      | 40 | 44. Rule days in the circuit courts,                                                   | 85 |
| 10. Judges to take an oath,                                                                               | 41 | 45. Clerks to give bond and security,                                                  | 85 |
| 11. Provision when judges do not attend,                                                                  | 41 | 46. Certain powers given to the general court,                                         | 86 |
| 12. Sheriffs to attend the courts, and their duty,                                                        | 41 | 47. Causes now depending may be adjourned to the general court,                        | 86 |
| 13. How a criminal is to be apprehended,                                                                  | 41 | 48. Circuit judges may award a change of venue,                                        | 86 |
| 14. How examined,                                                                                         | 41 | 49. Additional term of the general court,                                              | 86 |
| 15. How examining court constituted,                                                                      | 42 | 50. The fourth section of the original act, how to be construed,                       | 86 |
| 16. Power thereof, and proceedings therein,                                                               | 42 | 51. Pendleton county added to the Harrison circuit,                                    | 86 |
| 17. Duty of clerks of examining courts,                                                                   | 42 | 52. Rules as to clerks' fees,                                                          | 87 |
| 18. Number of circuit and assistant judges,                                                               | 42 | 53. Compensation to the assistant judges,                                              | 87 |
| 19. General court, when, and by whom to be holden,                                                        | 42 | 54. How certified and paid,                                                            | 87 |
| 20. Jurisdiction of the general court,                                                                    | 42 | 55. Records, &c. of former courts, how to be authenticated, and the effect thereof,    | 87 |
| 21. How questions may be adjourned,                                                                       | 43 | 56. Power of the judges as to ordering bail to be taken,                               | 87 |
| 22. Clerks' fees in the circuit courts,                                                                   | 43 | 57. Judges to be conservators of the peace,                                            | 87 |
| 23. Allotments among the judges, when, and how to be made,                                                | 43 | 58. How process may be taken out and executed,                                         | 87 |
| 25. Who are to preside in the circuit courts,                                                             | 43 | 59. How an assistant judge may vacate his office,                                      | 87 |
| 26. Injunctions, <i>certioraris</i> , <i>ne exeat</i> , and <i>habeas corpus</i> , by whom to be granted, | 43 | 60. Judges may take recognizance of special bail,                                      | 87 |
| 27. Salary of the judges,                                                                                 | 43 | 61. Certain parts of acts establishing district and quarter session courts repealed,   | 88 |
| 28. Regulations as to prisoners in certain counties,                                                      | 44 | 62. Circuit judges may license attorneys,                                              | 88 |
| 29. Penalty on clerks failing to deliver papers,                                                          | 45 | 63. Clerks' offices, where to be kept,                                                 | 88 |
| 30. Certain quarter session courts abolished,                                                             | 45 | 64. Penalty for failure,                                                               | 88 |
| 31. Provision as to process returnable to the general and district courts,                                | 45 | 65. Officers how to be examined,                                                       | 88 |
| 32. What number of judges may constitute a general court,                                                 | 46 | 66. Allowance to clerks for stationery,                                                | 88 |
| 33. Compensation to witnesses, venires, &c.,                                                              | 46 | 67. In what jail criminals shall be confined,                                          | 88 |
| 34. Causes, how to be docketed in the circuit courts,                                                     | 46 | 68. Jailors in circuit courts shall have the custody, &c. of prisoners,                | 89 |
| 35. Jurisdiction given over causes removed from the district and quarter session courts,                  | 46 | 69. Shall be exempt from militia duty and serving on juries,                           | 89 |
| 36. Provisions as to the criminals then in jail,                                                          | 46 | 70. Guards, how to be summoned and paid,                                               | 89 |
| 37. Provision as to process returnable to the district and quarter session courts,                        | 47 | 71. Certain laws to be applied to the circuit courts,                                  | 89 |
| 38. Provision as to bail bonds and recognizances,                                                         | 47 | 72. Duties of clerks of examining courts,                                              | 89 |
| 39. Allowance to clerks and sheriffs for ex-officio services,                                             | 47 | 73. Records, &c. of the Franklin district court to be lodged in the general court,     | 89 |
| 40. Commencement of the act,                                                                              | 48 | 74. Jurisdiction given over them,                                                      | 89 |
| 41. Duty of the attorney-general under the circuit court system,                                          | 85 | 75. The manner in which suits may be adjourned from the district to the general court, | 90 |
| 42. His salary,                                                                                           | 85 | 76. How process may be issued until the first term of the circuit courts,              | 90 |
| 43. Attorney's fee in the circuit courts,                                                                 | 85 |                                                                                        |    |

77. How returnable, 90  
 78. Court of appeals to certify and re-mand causes to the circuit courts, 90  
 79. Allowance to jailors, and how paid, 90  
 80. General court a court of record, 90  
 81. Times of holding certain courts, 91  
 82. Assistant judges to reside within the circuit, 91  
 83. Repeal of opposing acts, 91  
 1804.  
 84. Circuit courts established in the counties which had been annexed to other counties in 1802, 184  
 85. When to be held, 184  
 86. Assistant judges to be appointed, 184  
 87. Quarter session courts abolished, 184  
 88. Jurisdiction, 185  
 89. Another judge added to the circuit courts, 185  
 90. Allotment, 185  
 91. Jurisdiction of the circuit courts as to certain causes in the court of appeals, 185  
 92. Clerks to give bond, 185  
 93. Clarke circuit court, term of lengthened, 186  
 1807-8.  
 94. State to be laid off into ten districts, 504  
 95. First district—Greenup, Lewis, Mason and Fleming, 504  
 96. Time of holding courts, and length of terms, 504  
 97. Second district—Floyd, Montgomery, Bourbon, Harrison and Nicholas, 504  
 98. Time of courts and length of terms, 504  
 99. Third district—Fayette, Scott, Pendleton, Campbell and Boone, 504  
 100. Time of courts and length of terms, 504  
 101. Fourth district—Woodford, Franklin, Gallatin, Henry and Shelby, 505  
 102. Time of courts and length of terms, 505  
 103. Fifth district—Jefferson, Bullitt, Hardin, Nelson and Washington, 505  
 104. Time of courts and length of terms, 505  
 105. Sixth district—Breckenridge, Ohio, Muhlenberg, Henderson and Hopkins, 505  
 106. Time of courts and length of terms, 505  
 107. Seventh district—Livingston, Christian, Logan, Warren and Barren, 506  
 108. Time of courts and length of terms, 506  
 109. Eighth district—Cumberland, Adair, Green, Wayne and Pulaski, 506  
 110. Time of courts and length of terms, 506  
 111. Ninth district—Mercer, Casey, Lincoln, Garrard and Knox, 506  
 112. Time of courts and length of terms, 506  
 113. Tenth district—Madison, Emin, Clay, Clarke and Jessamine, 507  
 114. Time of courts and length of terms, 507  
 115. Allotment of judges, 507  
 116. Provision as to process and recognizances, 507  
 117. County courts to be held on the same days of the month that circuit courts are by act of this session directed to be held, 508  
**CIVIL SUITS FOR THE COMMON-WEALTH.**  
 1804.  
 1. When depositions to be taken against public delinquents, &c., 189  
 2. Attorney-general to give notice, 189  
 3. Attorney for the county to take depositions, 189  
 4. His compensation therefor, 189  
 5. The court to ascertain the amount of legal fees to different officers, 189  
 6. To be taxed in the bill of costs, and how, 190  
 7. Penalty on witnesses failing to attend, 190  
 8. How recoverable, 190  
 9. Provision as to clerks and sheriffs, 190  
 10. Court to certify the amount of judgment, &c., to the auditor, 190  
 11. To be settled and paid as in other cases, 190  
**CIVIL PROCEEDINGS.**  
 1807-8.  
 1. Declaration may be filed at the time of suing out the writ, 501  
 2. Copy of declaration to be delivered to the defendant, 501  
 3. Sheriff's return, 501  
 4. Summons for witnesses, 502  
 5. Pleadings, trial, continuance, 502  
 6. Chancery cases, where to be placed, 502  
 7. May be taken up by consent, 502  
 8. Penalty on clerks charging fees improperly, 502  
 9. How recoverable, 502  
 10. Complete records not to be made out, except in land cases, unless at the special request and proper costs of a party, 502  
 11. Office judgments, on being set aside, shall be tried before chancery causes, 503  
**CLERGY.**  
 1804.  
 1. All ministers duly qualified to preach the gospel, may obtain license to celebrate the rites of matrimony, 203  
 2. Shall be exempted from working on all highways, 203



## CLERKS.

1802.  
 1. Clerk's fee for examining commif-  
 sioners' books, 83  
 2. Fees on ex tions, 83  
 3. Fees for marriage license, 83  
 1803.  
 4. Clerks of county courts allowed com-  
 pensation for their services in criminal  
 prosecutions, [obsolete] 119  
 1804.  
 5. The act allowing county court clerks  
 compensation for their services in cri-  
 minal prosecutions explained, [obsolete] 202  
 6. Clerks of circuit courts shall draw  
 on the treasury as usual, 202  
 7. Shall have no allowance in the county  
 levy, 203

COMMON LAW, CRIMINAL.  
See criminal common law.

## COMPANY.

See Insurance company, Ohio canal.

## CONGRESSIONAL DISTRICTS.

1802.  
 State divided into, 5

## CONSCIENTIOUS PERSONS.

1804.  
 1. Quakers, monks and menonists ex-  
 empted from militia duty, 216  
 2. In what cases they shall furnish sub-  
 stitutes, 217

## CONSTABLES.

1803.  
 1. County courts to lay off districts and  
 appoint constables, 126  
 2. Those in office to give security, 126  
 3. Condition of the bond, 127  
 4. How suits may be prosecuted on it, 127  
 5. Constables failing to account, how to  
 be proceeded against, 127  
 6. To take the official oath in open  
 court, 128  
 7. How governed in making their re-  
 turns in certain cases, 128  
 8. Penalty for failing to make a return  
 in thirty days, 128  
 9. How to proceed where the magistrate  
 who issued the process resigns, 129  
 10. County courts may dismiss constab-  
 les from office, 129  
 11. Persons convicted of a riot shall pay  
 costs, 129  
 12. Constables may take bonds for the  
 forthcoming of property at the day of  
 sale, under certain restrictions, 129  
 13. What time between execution and  
 sale, 130

14. Proceedings where property is not  
 delivered according to bond, 130  
 15. Debtors may replevy, 130  
 16. In what manner executions shall be  
 made returnable, 130  
 17. Constables' fees, 130  
 18. Penalty on constables for charging  
 more than the law allows, 130  
 19. Constables may levy attachments re-  
 turnable to court, 131  
 20. Must deliver the attached property  
 to the sheriff, 131  
 21. Their compensation therefor, 131  
 22. Constables to collect officers' fees, 131  
 23. Must pay them in six months, 131  
 24. Sheriffs still compellable to receive  
 and account for officers' fees, 131  
 25. Constables to renew their bonds  
 every two years, 131  
 1806.  
 26. Constables' commissions in certain  
 cases, 328  
 27. Replevin limited in certain cases, 329  
 28. Constables' fees, how to be collect-  
 ed, 329

## CONSTITUTION, FEDERAL.

1803.  
 An amendment to it ratified, 149

CONVEYANCE AND DIVISION OF  
LAND.

1802.  
 1. Commissioners appointed by the  
 county court may convey rights of a-  
 dult, as well as the rights of infant  
 heirs, &c. 18  
 2. Notice to be given, and for what, 18  
 3. How lands held by residents and non-  
 residents may be divided, 19  
 4. How suits in chancery may be brought  
 against heirs, &c. 19  
 5. Commissioners may be appointed to  
 convey in pursuance of a decree, 19  
 6. Rules as to amendments in chancery, 20  
 1807-8.  
 7. Courts of chancery may appoint com-  
 missioners to convey lands under de-  
 crees thereof, 460  
 8. Where conveyance to be recorded, 460  
 9. May be set aside when obtained by  
 fraud, 460  
 10. Provision saving to the defendant the  
 benefit of a bill of review, 460  
 11. Courts of chancery to appoint com-  
 missioners to convey the land of non-  
 resident defendants, 460

CONVICTS, THEIR FAMILIES AND  
ESTATES.

See penitentiary, No. 19, 20.

## CONVICTS.

- 1807-8.  
 1. Convicts in the penitentiary made competent witnesses in criminal prosecutions against convicts, 515  
 2. A person convicted of perjury, not competent under this act, 516  
 3. To be furnished with tobacco, 516

## CORONERS.

1803.  
 Coroners may summon juries in all cases where the law requires them to hold inquisitions, 131

## COSTS ON PRESENTMENTS.

1806.  
 1. No attorney's fee to be charged where the fine is paid down at the term when the presentment is made, 353  
 2. Not to extend to cases where the amount of the fine is not fixed by law, 353  
 3. The clerk shall account annually with the county court at their court of claims, for fines so received, 353  
 4. Shall pay over such fines, under penalty, &c. 353

## COTTON.

See inspections.

## COURTS.

1803.  
 1. The time of holding courts in certain counties altered, 162-4  
 1805.  
 2. Proceedings of circuit courts confirmed, 318  
 3. Regulation when the general court shall fail to make an allotment, 318

## COURT OF APPEALS.

1803.  
 1. The court of appeals may adjourn for any number of days not exceeding fifteen, and then again proceed on the business of the court, 100  
 2. During such recesses, the court, or any judge, may award a *superfedeas*, 100  
 1804.  
 3. Appeals regulated, 173  
 4. Court of appeals not limited to fifteen days in its adjournment, 178  
 5. Part of a former act repealed, 179  
 1807-8.  
 6. Two judges may form a court in certain cases, 484

## COURT, GENERAL.

1803.  
 1. Three judges authorized to do business during the [then] present term, 118

1804.  
 2. The judges shall meet as usual, make their allotments, and decide adjourned questions, 214  
 3. They shall then allot four to the general court, any three of whom may constitute a court, 214  
 4. Fees of the clerk the same as the clerk of the court of appeals in similar cases, 214  
 5. Regulations concerning suits brought on false suggestions, 214  
 6. Allotments need not be recorded in the circuit courts, 215

## COURTS, CIRCUIT.

See circuit courts.

## COURTS, COUNTY.

Where to be held—See circuit courts, Nos. 3 and 117.

## CRIMES.

See penal laws, *passim*.

## CRIMINAL COMMON LAW.

1802.  
 1. Certain duties of the reviewers, 50  
 2. The arrangement of the work, 50  
 3. The reviewers to prepare a report, 51  
 4. The common law and English statutes repealed in certain cases, 51  
 5. Offences against the king to be omitted, 51  
 6. Trials in treason to be conducted like other felonies, 51  
 7. Punishment in the penitentiary shall make the crime felony, 52  
 1803.  
 8. The revision of the criminal law shall have as much weight as it is entitled to, 148  
 9. A thousand copies shall be printed, 149  
 1804.  
 10. An act directing the distribution of the criminal code, 186  
 11. The revision of the criminal common law to be completed, printed, distributed and paid for, 246

## CRIMINAL PROCEEDINGS.

1805.  
 1. Process of arrest, when returnable, 291  
 2. Upon an indictment found, what process shall issue, 291  
 3. On a *capias* for a bailable offence, the court shall direct in what sum bail shall be taken, 291  
 4. Which shall be endorsed on the process, 291  
 5. Defendant may give a bail bond to the

- governor, with two securities, to be approved of by the officer, 291
6. If forfeited, how to be proceeded on, 292
7. Process valid without endorsement, 292
8. How defendant may be bailed, where there is no endorsement, 292
9. At what term the trial shall be had, 292
10. Regulations as to issuing *venire facias*, 292
11. Causes for which a trial shall not be put off, 292
12. Causes for which a *venire facias* shall be directed to the coroner or a justice of the peace, 292
13. Judgment not to be arrested or reversed for any defect in form, 293
14. An indictment may be found in part, and be good, 293
15. What variance shall not be fatal, 293
16. Causes which shall be no bar against new proceedings, 293
17. Cases where a prisoner shall not be discharged on an *habeas corpus*, 293
18. How, and in what cases *femes covert* and infants may enter into recognizances, 294
19. Proceedings thereon, 294
20. Proceedings on recognizances, related, 294
21. Proceedings in cases of reparation, and restitution of stolen property, regulated, 294
22. What shall not be a cause of exception to a witness for the commonwealth, 295
23. Regulations as to continuances in criminal cases, 295
- D.**
- DEBT, PUBLIC.**
- 1805.
1. Statement of it to be obtained, 306
2. Duties assigned to the auditor respecting it, 306
3. To have access to the records in the register's office, 307
4. To those in the treasurer's office, 307
5. Statements to be obtained from clerks of county courts and surveyors, 307
6. Penalty on clerks and surveyors for a failure, and how recoverable, 307
7. Allowances to clerks and surveyors, 307
8. Certificates not to be granted for, or removed on certain lands, 307
9. Proviso, 307
10. Certain claims deemed illegal and void, 308
11. County courts prohibited from granting certificates, and when, 308
12. Regulations to prevent impositions, 308
- 1806.
13. Land to be paid for in twelve equal instalments, 386
14. At what time, 386
15. Subject to an interest of 6 per cent. per annum, 386
16. On failure of payment, to be sold, 386
17. Where and when, 386
18. Proviso, 386
19. May be redeemed within two years, 386
20. Proviso as to purchasers who fail to pay, 387
21. Sale not to be impeached for error in the amount charged, 387
22. Regulations as to tracts not ready for sale, 387
23. Delinquent claimants may be evicted by purchasers, 387
24. Register's certificate to vest the title in the purchaser, 387
25. Proviso, 387
26. Overplus to be paid to the original owner, 388
27. Register's duty and compensation, 388
28. Provisions as to removed certificates, 388
29. Rights of infants saved, 388
30. Provided notice is given to the register before the sale, 388
31. Interest remitted where payment is made within two years, 388
32. Proviso, 389
33. Land to be taken up must be paid for in four annual instalments, 389
34. Deduction for prompt payment, 389
35. On failure to pay, land to be sold, 389
36. Clerks of county courts, their duty as to new certificates, 389
- 1807-8.
37. Sales of land for the public debt, to commence on the first Monday in June, annually, 478
38. In what cases to be stricken off to the state, 479
39. How redeemable therefrom, 479
40. How redeemable from individuals, 479
41. Purchasers, how reimbursed, when lands are redeemed, 479
42. Auditor to furnish the register with a list of the instalments due, 479
43. Payments how to be made, 480
44. Register to give certificates to purchasers, 480
45. Who shall pay to the treasury, 480
46. Register to file the treasurer's receipts with the auditor, 480
47. Interest remitted on certain conditions, 480

48. Proviso for payment twice made, 480  
 49. Provisions respecting relinquish-  
 ments, 481  
 50. Auditor, treasurer, register, and  
 their clerks, not to purchase at the  
 sales, 481  
 51. Register to pay into the treasury,  
 money formerly received on head-  
 rights, 481  
 52. Penalty on purchasers not paying, 481  
 53. Register's fee, 482  
 54. Land to be again exposed, 482  
 55. Provisions relative to orphans' land  
 stricken off to the state, 482  
 56. Register's compensation, 482  
 57. Provisions for persons who have ob-  
 tained two certificates for the same  
 land, 483  
 58. Removed certificates not to be loca-  
 ted on certain lands, 483

## DEEDS.

1806.  
 1. Deeds need not be recorded in the  
 circuit court, 358  
 2. County court clerks to demand  
 books, &c., 358  
 3. Circuit court clerks to deliver them, 359  
 4. Copies from the county court clerks  
 to be evidence, 359

## DELINQUENT SURVEYORS.

1802.  
 1. Surveyors to settle their accounts  
 with the trustees of the Transylvania  
 seminary, and for what fees, 61  
 2. If they settle their accounts accord-  
 ing to this act, not to be subject to pe-  
 nalties already incurred, 61  
 3. This act to be published in all the  
 newspapers in this state, 61  
 4. Amount due may be recovered, how  
 and before what court, 61  
 5. Surveyors' fees reduced in certain  
 cases, 61  
 6. No part hereafter to be paid to the  
 Transylvania seminary, 61

## DELINQUENT LISTS.

See taxes.

## DEPOSITIONS.

- 1807-8.  
 1. Courts may award commissions, and  
 what shall be deemed a sufficient au-  
 thentication, 524  
 2. Clerks may issue commissions in cer-  
 tain cases, 524  
 3. No notice necessary for an application  
 for a commission, 525

## DESTRUCTION OF RECORDS.

1803.  
 1. Duty of courts whose records may be  
 destroyed, 155  
 2. Proceedings where original judgments  
 may be destroyed, 155  
 3. Clerks' compensation, 155  
 4. Duty of the court where the bond of  
 an executor, administrator, or guardian  
 may be destroyed, 156  
 5. Courts to appoint commissioners when  
 records are destroyed, 156  
 6. The powers and duty of such com-  
 missioners, 156  
 7. The sheriff shall attend them, 156

## DISTRICTS, CONGRESSIONAL.

State divided into, 5

## DISTRICTS, JUDICIAL.

See circuit courts, Nos. 94, &amp;c.

## DIVISION OF LAND.

See conveyance and division.

## DOWER.

1803.  
 1. County courts may appoint commis-  
 sioners to assign dower, 133  
 2. Clerks of county courts may receive  
 payment of dower, 133

## E.

## EJECTMENT.

- 1807-8.  
 Sheriffs and constables may serve decla-  
 rations in ejectment officially, 458

## ELECTION, WRITS OF.

See writs of election.

## ELECTIONS.

- 1807-8.  
 1. Vacancy in the house of representa-  
 tives prior to the meeting of the legis-  
 lature, how to be supplied, 472  
 2. Duty of the sheriff, 472  
 3. Duty of the governor, 472

## ENTRY BOOKS.

- 1807-8.  
 Copies of entry books in the register's  
 office to be compared with the origi-  
 nals, [executed] 539

## ERROR, WRITS OF.

See writs of error.

## EXECUTIONS.

1802.  
 1. Plaintiffs in executions may move to  
 have them quashed in certain cases, 59  
 2. Ten days notice to be given of such  
 motion, 59  
 3. New executions may issue, 59

## F.

## FEDERAL CONSTITUTION.

1803.

An amendment to it ratified, 149

## FEES.

See general court, surveyor's fees, officers' fees, magistrates, justices.

## FERRIES.

1806.

1. Ferries established on the Ohio, 361
- Price's confirmed, 361
2. Proviso, 361
3. Powers of the county courts, 361
4. Owners of ferries to give bond and security, 361
5. Owners not to be exempted from public duties, 362
6. County courts to fix rates, 362
7. Regulation concerning keepers, 363
8. Penalty against persons not ferrymen, 363

## FINES.

1806.

1. Justices of the peace to deliver a list of fines to the clerk, 374
2. Constable to pay over to the clerk, 374
3. How justices out of office are to proceed, 375
4. Duty of clerks of circuit courts, 375
5. Duty of county courts, 375
6. How the sheriff shall account, 376

## FINES ON PRESENTMENTS.

See costs of presentments.

## FIRE ENGINE.

1806.

One to be procured at the public expense, for the security of the public buildings, 376

## FORFEITURE.

See lands.

## FREE NEGROES.

1807-8.

1. Free negroes and mulattoes, their migration to this state prohibited, 499
2. How to be proceeded against, 499
3. Duty of justices respecting testimony, 499
4. Recognizance, 500
5. Penalty and condition, 500
6. Commitment on failure to execute such recognizance, 500
7. Power and duty of county courts, 500
8. May take recognizance, 500
9. On failure to enter into such recognizance, may order a sale, 500
10. Purchaser to give bond and security, 500
11. How recoveries may be had on bonds and recognizances, 500

12. Proceedings where the offence shall be repeated, 500

## FUGITIVES FROM JUSTICE.

1803.

1. Governor to order the apprehension of fugitives, 108
2. The fugitives shall be identified by the examining courts, 109
3. Persons applying for fugitives shall pay the cost of their apprehension and identification, 109
4. In what cases the fugitive shall be remanded to jail, and how long detained there, 109
5. Proceedings against persons flying from the justice of this state, 109
6. The governor may demand them from the executive of other states, 110
7. Agent may hire a guard, 110
8. Their compensation, 110
9. Fugitives to be delivered to the sheriff of the county where the crime was committed, 110
10. Advance of money may be made to the agent, 110
11. His compensation, 111
12. Penalty for neglecting to settle his accounts, 111
13. How to be recovered, 111
14. Governor authorized to settle for the apprehension of Wiley, 111

1805.

15. Fugitives from justice, how to be proceeded with, 300
16. Notice to be given to the governor, and his duty, 301
17. Allowance to jailors, 301

## G.

## GAMING.

1804.

1. Tax on billiard tables, 176
2. Table kept up and used liable to be taxed, 176
3. Lien on the tables, 176
4. Who liable for the tax, 176
5. A. B. C. and other tables, the use of them how to be suppressed, 176
6. Justice may proceed on his own view, 176
7. Tables, &c. to be seized and burnt, 177
8. Sheriff may break open houses, 177
9. The owner or exhibitor to be apprehended, 177
10. Penalty for refusing to obey the justice or sheriff, 177
11. Penalty on justice, sheriff, &c. for failure of duty, 177

GENERAL COURT.

See court, general.  
By whom to be holden—See circuit courts, No. 19.

GENERAL ASSEMBLY.

1806.  
1. Legislature to meet on the fourth Monday in December, 399
2. Wages of the members raised, 404
- 1807-8.  
3. To meet the second Monday in December, 473

GOVERNOR.

1806.  
The governor authorized to draw on the treasury for the carriage of books and other articles received from other governments on the public account, 321

GRANTS.

1803.  
Grants left incomplete by the late register, to be completed by the present register, 141

GREEN RIVER, NAVIGATION OF.

- 1807-8.  
1. County courts to appoint overseers for the purpose of removing obstructions, 467
2. Duty of overseers, 467
3. Penalty on overseers, 467
4. Penalty on hands, how recoverable and applied, 467
5. Hands working on the river, exempted from working on roads, 468
6. Majority of justices must concur in orders under this act, 468
7. Penalty for placing obstructions in the river, 468

H.

HABEAS CORPUS.

See circuit courts, No. 26, criminal proceedings, No. 17.

HEIRS.

See conveyance and division of lands.

I.

IDEOTS.

See persons of unsound minds.

INN-KEEPERS.

See tavern-keepers,

INFANTS, THEIR RECOGNIZANCES.

See criminal proceedings, No. 18.

INJUNCTIONS.

See circuit courts, No. 26,

INSPECTIONS OF COTTON:

1802.  
1. Owners of cotton presses may be appointed inspectors of cotton, 28
2. To enter into bond with security to the governor, 28
3. Their duty and allowance, 29
4. Size of bales, 21
5. Further duties of inspectors, 21
6. Subject to damages and penalties for neglect, 21
7. Counterfeiters of marks, how punished, 21
8. Rates of storage, 21

INSPECTIONS.

1803.  
1. What shall be deemed a lawful warehouse, 124
2. Regulations as to inspections hereafter to be established, 124
3. Duty of justices as to inspections, 124

INSURANCE COMPANY, KENTUCKY.

1802.  
1. Company incorporated, 25
2. Its name and continuance, 25
3. Powers, 25
4. Limitation of stock, 25
5. To have a seal, 25
6. May establish by-laws, 26
7. Shares, by whom to be subscribed for and how many, 26
8. Amount of each share, how payable, 26
9. Penalty for failure in payment, 26
10. Subscriptions, by whom to be received, 26
11. When and by whom a president and directors are to be elected, 27
12. Officers, clerks, &c. by whom to be appointed, 27
13. Powers of the president and directors to call meetings of the shareholders, 27
14. Shares transferable, 28
15. Further powers of the president and directors, 28
16. Within what time the risk shall be taken, 28
17. The manner of applying for insurance, 28
18. Protests in cases of loss, 28
19. Payments to be made, 28
20. What deductions on premiums returned, 28
21. In what cases the company shall be liable for losses, 29
22. What length of time shall raise a presumption of the loss of a boat on the Mississippi, 29

23. General meeting, when and where held, 29
24. When and how dividends shall be made, 29
25. Who may be president and directors, and their compensation, 29
26. Recovery may be had against them on motion with notice, 30
27. Notes, &c. how negotiable, 30
28. Debts, in what courts recoverable, 30
29. Judgments to be given the first term, unless good cause for a continuance is shewn, 30
30. Jury, in what cases to be empanelled, 31
31. Penalty for buying and selling goods, 31
32. Proviso, 31
33. No other insurance company shall be incorporated during the continuance of this, 31
34. The 25th section of the act incorporating it repealed, 213
35. The amount of notes to be issued, 213
36. Regulations respecting the president and directors, 213
- J.**
- JAILORS.**
- County courts to make an allowance to jailors out of the county levy, 242
- See circuit courts, and penal laws, Nos. 25 and 26.
- JUDGES OF THE COURT OF APPEALS.**
- Their salaries increased, 358
- JURIES, PETIT.**
1. No transient person shall be compelled to serve as a petit juror, 402
2. Each party may peremptorily challenge four jurors, 402
3. No physician, surgeon, or minister of religious society, compellable to serve, 402
- See justices of the peace, No. 3.
- JURISDICTION, CONCURRENT.**
- Concurrent jurisdiction given to both courts on the dividing line of counties, 439
- JUSTICES OF THE PEACE.**
1. Justices of the peace added to certain counties, 82
2. The number of justices allotted to a county to be exclusive of the number allotted to the county town, 82
3. Justices of the peace exempted from serving on juries, 242
4. The act giving them fees repealed in part, 359
5. Shall give copies, on application, of all records in their possession, 376
6. Fee for so doing and penalty for refusal, 376
7. Justices shall have jurisdiction of demands reduced below five pounds by credits, 505
8. Shall have jurisdiction of demands payable in property, 503
- See magistrates.
- K.**
- KENTUCKY INSURANCE COMPANY.**
- See insurance company, Kentucky.
- KENTUCKY RIVER.**
- Martin Hawkins permitted to build a mill on it, and on what conditions, 120-3
- L.**
- LANDS.**
- See conveyance and division of lands, and sale of land for taxes.
1. The forfeiture of lands for failing to list them for taxation, relinquished, 192
2. Two years further time allowed to list lands for taxation, 330
3. Lands sold for taxes may be redeemed in two years, 335
4. Subject to 100 per cent. interest, if sold to an individual, 335
5. For want of bids, to be stricken off to the state, 335
6. But may be redeemed in like manner, subject to 50 per cent. interest, 335
7. Auditor entitled to 50 cents on each redemption, 402
8. Sales of land for the debt due the state to be suspended, 436
9. The auditor to furnish the register with lists, 436
10. Owners may pay as heretofore, 436
11. Duty of the register and treasurer, 436

## LICKING.

See main Licking.

## LIMITATION OF ACTIONS.

- 1807-8.  
 1. Slaves claiming freedom under the laws of Virginia and Pennsylvania to sue within two years, 484  
 2. This act may be given in evidence, 484

## M.

## MAGISTRATES.

1802.  
 1. Certain fees allowed to justices of the county courts, [repealed in part] 48  
 2. Penalty for signing blank warrants, 48  
 3. Penalty for demanding greater or other fees than are allowed by law, 49  
 1805.  
 4. Rates of fees, and for what services, [repealed in part] 295  
 5. By whom to be paid, 296  
 6. Penalty for extortion, and how recovered, 296  
 7. Regulation as to strays, 296  
 8. Justices may issue their fee bills, and how they shall be collected, 296  
 See also justices.

## MAIN LICKING.

1802.  
 1. The act allowing mills to be built on main Licking, repealed, 8  
 2. Penalty for making obstructions therein, 8  
 3. Penalty how applied, 8  
 1805.  
 4. Mill dams allowed to be built on it under certain restrictions, 258  
 1806.  
 3. Mills allowed to be built on main Licking, 366  
 4. Mode of proceeding, 366  
 5. Conditions on which allowable, 366  
 6. Height of the dam, 366  
 7. Slope, how to be constructed, 366  
 8. Where to be erected, 366  
 9. Width of slope, and at what time to be erected, 367  
 10. Bond with security, to be given, 367  
 11. Bond may be sued on, &c. 367  
 12. Power reserved to the legislature to repeal the law, 367

## MILL DAMS.

1802.  
 1. Mill dams may be erected in a town, 9  
 2. The same proceedings shall be had as in other cases, 9

## MILITIA.

1806.

1. Exemptions from militia duty, 418  
 2. Enrolment, 419  
 3. Militia to be laid off in divisions, &c. by the governor, 419  
 4. Duty of the major-generals, 420  
 5. Duty of the brigadier generals, 420  
 6. Commandants of regiments, 420  
 7. Commandants of battalions, 421  
 8. Captains and commandants of companies, 421  
 9. Lieutenants and ensigns, 422  
 10. General, brigade & regimental staff, 422  
 11. General regulations, 423  
 12. General courts martial, 425  
 13. Division courts martial, 423  
 14. Brigade courts martial, 423  
 15. Regimental courts martial, 423  
 16. Jurisdiction, proceedings in, &c. 424  
 17. Of musters, exercise and returns, 426  
 18. Tour of duty, 430  
 19. Pay and fines, 432

1807-8.

20. Four company musters to be in each year, 517  
 21. In what months, 517  
 22. When to make company returns, 517  
 23. Battalion returns, 517  
 24. Regimental returns, 517  
 25. Division returns, 517  
 26. Adjutant general's returns, 518  
 27. Commandants of regiments to modify and arrange the subordinate divisions of their regiments, 518  
 28. Notice to privates of musters, 518  
 29. Delinquent commandants of companies to be reported to court, 518  
 30. Resignations, to whom to be made, 518  
 31. Vacancies, how to be filled, 519  
 32. Regulations respecting compensation to brigade inspectors, 519  
 33. Adjutant general shall keep his office in the state-house, 519  
 34. Distribution of forms for returns, 519  
 35. Adjutant general to give his personal attendance, 519  
 36. Postage on certain military communications, to be paid by the state, 520  
 37. Penalty on the adjutant general failing to perform his duty, 520  
 38. Compensation to the adjutant general, 520  
 39. Provifo, 520  
 40. Absent officers, at what time their offices vacated, 520  
 41. Regulations where officers labor under certain maladies, 520



|                                                                                            |     |
|--------------------------------------------------------------------------------------------|-----|
| 42. Cavalry, how organized,                                                                | 521 |
| 43. Exercise of cavalry,                                                                   | 521 |
| 44. Returns of cavalry,                                                                    | 521 |
| 45. Squadron courts,                                                                       | 521 |
| 46. Fines, how collected and applied,                                                      | 521 |
| 47. Appeals,                                                                               | 521 |
| 48. Oath of judge advocate,                                                                | 522 |
| 49. His compensation,                                                                      | 522 |
| 50. Compensation to the provost,                                                           | 522 |
| 51. Power and duty of certain courts martial,                                              | 522 |
| 52. Fines, how collected,                                                                  | 522 |
| 53. Certain persons exempt from bearing arms,                                              | 522 |
| 54. Penalty for appearing on parade without arms,                                          | 523 |
| 55. List of fines, how to be distributed,                                                  | 523 |
| 56. Former provision repealed,                                                             | 523 |
| 57. Tour of duty to be performed personally, or by substitute,                             | 523 |
| 58. Cases of absence,                                                                      | 523 |
| 59. Where a sufficient number of officers do not attend, those present may adjourn,        | 523 |
| 60. Secretary of state to furnish the judge advocate with the names of the staff officers, | 524 |

## MONEY.

|                                     |             |
|-------------------------------------|-------------|
| 1. An act for the appropriation of, | 1802. 93    |
| 2. An act appropriating,            | 1803. 165   |
| 3. An act appropriating money,      | 1804. 245   |
| 4. An act for the appropriation of, | 1805. 321   |
| 5. Money, appropriation of,         | 1806. 408   |
| 6. Money, appropriation of,         | 1807-8. 535 |

## MONKS.

See conscientious persons.

## MOTIONS.

See writs of error.

## N.

## NAVIGATION.

See Green river.

## NE EXEAT.

See circuit courts, No. 26.

## NEGROES, FREE.

See free negroes.

## NOTICES.

|                                                     |             |
|-----------------------------------------------------|-------------|
| Sheriffs and constables may give notice officially, | 1807-8. 458 |
|-----------------------------------------------------|-------------|

## VOL. III.

## O.

## OHIO CANAL COMPANY.

1804.

|                                                                                 |       |
|---------------------------------------------------------------------------------|-------|
| 1. Books for subscriptions to be opened at various places,                      | 221   |
| 2. General meeting of the subscribers, when,                                    | 222   |
| 3. Notice to be given, and how,                                                 | 222   |
| 4. Duty of the managers,                                                        | 222   |
| 5. Lists of subscription, where to be recorded,                                 | 222   |
| 6. Manner of reducing the sum subscribed,                                       | 222   |
| 7. Regulations concerning the capital,                                          | 223   |
| 8. Number of shares and amount of each,                                         | 223   |
| 9. How to be ascertained,                                                       | 223   |
| 10. When the company shall be incorporated,                                     | 223   |
| 11. Regulations respecting the president and directors,                         | 223   |
| 12. Proprietors to vote; and how,                                               | 223   |
| 13. Canal to be cut, &c.                                                        | 223   |
| 14. Treasurer and other officers to be appointed, and their wages how settled,  | 224   |
| 15. Treasurer to give bond and security,                                        | 224   |
| 16. His salary,                                                                 | 224   |
| 17. Regulations concerning the duty of the president and directors,             | 224   |
| 18. Their orders to be advertised; and where,                                   | 224   |
| 19. How works to be carried on and kept in repair,                              | 225   |
| 20. Shares sold at auction,                                                     | 225   |
| 21. President and directors, how continued,                                     | 225   |
| 22. President and directors to take oath,                                       | 226   |
| 23. How general meetings shall be constituted, and regulations respecting them, | 226   |
| 24. Toll and profits, how divided,                                              | 226   |
| 25. How meetings shall be called in cases of emergency,                         | 226   |
| 26. Manner of condemning grounds,                                               | 226-7 |
| 27. Valuation of the jury conclusive, and how the damages shall be paid,        | 227   |
| 28. Further regulations respecting the damages,                                 | 227   |
| 29. Quantity of land to be purchased, and how,                                  | 228   |
| 30. Buildings to be erected, &c.                                                | 228   |
| 31. Concerning mills, forges, &c.                                               | 228   |
| 32. Company may purchase lands,                                                 | 228   |
| 33. May lease water for the erection of water-works,                            | 228   |
| 34. Shares, how to be transferred,                                              | 229   |
| 35. Provision respecting transfers,                                             | 229   |

## B

|                                                                                        |       |                                                                                  |       |
|----------------------------------------------------------------------------------------|-------|----------------------------------------------------------------------------------|-------|
| 36. President and directors may take subscriptions,                                    | 229   | 73. Proviso,                                                                     | 264   |
| 37. Capital, how to be increased, if necessary,                                        | 230   | 74. Company may take stone, &c. from adjoining lands,                            | 264   |
| 38. Regulations respecting the disposition of subscriptions,                           | 230   | 75. Regulations as to bridges,                                                   | 264   |
| 39. The works and profits to be vested in the proprietors as tenants in common,        | 230   | 76. Proviso,                                                                     | 264   |
| 40. Made real estate, and exempt from tax,                                             | 230   | 77. President and directors to contract for cutting a canal, &c.                 | 265   |
| 41. Rates of toll,                                                                     | 231   | 78. Treasurer to give bond,                                                      | 265   |
| 42. How to be collected,                                                               | 231   | 79. No officer to vote on his own account,                                       | 265   |
| 43. Company's books always open to the inspection of the general assembly,             | 231   | 80. Company may receive donations, &c.                                           | 265   |
| 44. Water-works to be begun within 3 years,                                            | 232   | 81. Power of the company to recover debts,                                       | 265   |
| 45. Respecting weirs and other obstructions,                                           | 232   | 82. Subscriptions by the United States, &c.                                      | 265   |
| 46. Not to be built without the consent of the president,                              | 232   | 83. Power of the president, &c. to direct payment,                               | 266   |
| 47. Penalty for so doing,                                                              | 232   | 84. Such orders to be advertised,                                                | 266   |
| 48. How to be recovered and applied,                                                   | 232   | 85. Provision when subscribers shall refuse to pay,                              | 266   |
| 49. Scheme of a lottery, and provisions respecting it,                                 | 232   | 86. Rates of toll,                                                               | 267   |
| 50. Canal forever to be considered as a public highway,                                | 233   | 87. Power of the collector to stop and detain vessels,                           | 268   |
| 51. No higher rates of toll to be imposed, unless with the consent of the legislature, | 234   | 88. Provision as to the condemnation of land,                                    | 268   |
|                                                                                        | 1805. | 89. Company may erect water-works,                                               | 269   |
| 52. Subscribers under former act to be subscribers under this,                         | 259   | 90. President and directors may purchase land to erect buildings on,             | 270   |
| 53. Company incorporated, and name,                                                    | 260   | 91. May establish a lottery,                                                     | 270   |
| 54. Capital and number of shares,                                                      | 260   | 92. Directions as to the lottery,                                                | 271   |
| 55. Directors, when to meet,                                                           | 260   | 93. Proviso as to the payment of tolls,                                          | 271   |
| 56. Election of new directors, when to take place,                                     | 261   | 94. Canal, when to be finished,                                                  | 271   |
| 57. To be advertised,                                                                  | 261   | 95. Company's books to be open to legislative inspection,                        | 272   |
| 58. By whom to be made,                                                                | 261   | 96. Canal declared a public highway,                                             | 272   |
| 59. Directors' duty and powers,                                                        | 261   | 97. Legislature may make further regulations,                                    | 272   |
| 60. Proviso that they shall not issue bills of credit,                                 | 261   |                                                                                  | 1806. |
| 61. Vacancies of directors, how to be filled,                                          | 261   | 98. President and directors to continue in office until the first of April 1808, | 373   |
| 62. Vacancy of president,                                                              | 261   | 99. On that day a new election to be had,                                        | 374   |
| 63. Officers to be sworn,                                                              | 262   | 100. Vacancies, how filled,                                                      | 374   |
| 64. Subscriptions, how to be made and paid,                                            | 262   | OFFICES INCOMPATIBLE.                                                            |       |
| 65. Provisions as to future meetings,                                                  | 262   |                                                                                  | 1806. |
| 66. President and directors to make annual reports,                                    | 262   | 1. No man shall be justice of the peace and jailor at the same time,             | 357   |
| 67. Called meetings to be advertised,                                                  | 263   | 2. No judge or justice of any court, shall be county surveyor,                   | 357   |
| 68. State subscriptions,                                                               | 263   | OFFICERS' FEES.                                                                  |       |
| 69. Proviso,                                                                           | 263   |                                                                                  | 1802. |
| 70. Shares to be reserved for the state,                                               | 263   | 1. Certain allowances made to the sheriff,                                       | 34    |
| 71. Governor to vote,                                                                  | 263   | 2. Allowances for horses and boats impressed,                                    | 34    |
| 72. Tolls, when to be paid to the state,                                               | 263   | 3. To the jailor for putting a prisoner in irons,                                | 34    |

- 1807-8.
4. Sheriffs allowed ten per cent. for collecting fees, 485
  5. Further time to put fee bills into officers' hands for collection, 485
  6. Fee bills for certain services, when collectable, 485
  7. To be sent out for collection within the year after they become due, 485
  8. Penalty on sheriffs failing to pay money collected on fee bills, 486
  9. Provision where fee bills are not sent out in due time, 486
- OPINIONS OF THE COURT OF APPEALS.
- The act for their promulgation, [executed,] 236
- P.
- PEDLARS.
- 1806.
1. Pedlars to obtain license, and pay tax therefor, 342
  2. Penalty for selling without license, 342
  3. How recoverable, 342
- PENAL LAWS.
- 1802.
1. Punishment for breaking an house in the day time, 63
  2. For robbing a person in an house, 63
  3. For larceny for 4. dollars or upwards, 63
  4. Under four dollars, 63
  5. Larceny under four dollars in certain cases, 64
  6. For breaking a warehouse, 64
  7. For stealing a land warrant, 64
  8. For forging, altering or counterfeiting a land warrant, 64
  9. For stealing a pump or destroying any vessel, 65
  10. The act of 1801 amended, 65
  11. Of forgery and counterfeiting, 65
  12. For manufacturing paper for bank notes without lawful authority, 65
  13. For engraving any plate for bank notes without lawful authority, 66
  14. For making or having instruments for counterfeiting the current coin, 66
  15. *Onus probandi*, where to lie on the accused, 67
  - Such instruments to be seized and destroyed, 67
  16. Of wounding without killing, 67
  17. Of poison, 67
  18. Punishment for threats to extort money, 68
  19. For assaults with intent to rob, 68
  20. For embracery, 68
21. Murder committed in attempting to perpetrate an unlawful act, explained, 68
  22. Accessories [to felonies] before the fact, punishable, though their principals be not taken, 68
  23. Free persons only to be confined in the penitentiary, 68
  24. Punishment of slaves, 69
  25. County courts have power to remove jailors for neglect of duty, 69
  26. District jailors removable by the governor, 69
  27. Certain duties to be done by the quarter session courts, 69
  28. The owner of a house not necessary to be inserted in an indictment for burglary, &c., 69
  29. Certain amendments to the act of 1801, 70
  30. Certain laws repealed, 70
- 1804.
31. Convict escaping from the penitentiary shall undergo additional confinement, 240
  32. Shall be charged with the expense of re-taking, &c., 240
  33. Punishment for wounding where death does not ensue, 240
  34. Certain clauses of former acts repealed, 241
  35. Defect in a warrant shall not produce a prisoner's discharge, 241
  36. Provision in case the justices do not attend a court of enquiry or of oyer and terminer, 241
  37. Act of limitations not to apply to criminal cases, 241
  38. Appeals prohibited in prosecutions for a riot, 241
  39. Liquors not to be sold near a place of worship, 241
  40. Justices of the peace may take bail in criminal cases, 242
- 1805.
41. Punishment for hog-stealing and petit larceny under four dollars, 299
  42. For hog-stealing above four dollars, 299
  43. Parts of former law repealed, 299
- PENITENTIARY.
- 1802.
1. Clerk of the examining court to transmit a statement of expenses, [obsolete,] 79
  2. Clerk of the district court to transmit to the keeper of the penitentiary a statement of the reparation, expenses, &c. of a criminal, when convicted, 71
  3. Form thereof, 71

|                                                                                                                                         |    |                                                                                                           |       |
|-----------------------------------------------------------------------------------------------------------------------------------------|----|-----------------------------------------------------------------------------------------------------------|-------|
| 4. When more than one criminal, expenses to be proportioned,                                                                            | 72 | address of two-thirds of the inspectors,                                                                  | 77    |
| 5. Penalty on clerks failing to transmit such statement,                                                                                | 72 | 32. Certain fines to be paid for the use of the penitentiary to the agent,                                | 77    |
| 6. Lands, goods, &c. of the convict, liable to be taken to make retribution to the party injured,                                       | 72 | 33. Duty of the clerks of the several courts,                                                             | 77    |
| 7. Execution may issue therefor, on which no replevin shall be allowed,                                                                 | 72 | 34. Directors to pay for the balance of the lot out of subscriptions for building the penitentiary,       | 77    |
| 8. Shall be returnable to the keeper of the penitentiary,                                                                               | 72 | 35. Inspectors may cause accounts to be settled, and recover sums due for articles manufactured,          | 77    |
| 9. Agent of the penitentiary to open and keep accounts, and how,                                                                        | 72 | 36. How persons are punishable for offences under this act,                                               | 78    |
| 10. Convict to have credit for his labor,                                                                                               | 73 | 37. Provision as to offenders against the laws of congress, and certain sections of former laws repealed, | 78    |
| 11. An inspector and the keeper may issue a warrant to re-take any convict,                                                             | 73 |                                                                                                           | 1805. |
| 12. May pay a reward therefor, not exceeding 100 dollars,                                                                               | 73 | 38. Duties enjoined on clerks of examining courts, [obsolete,]                                            | 298   |
| 13. May employ persons to go in pursuit of an escaping convict,                                                                         | 73 | 39. The balance in favor of a convict on his discharge, shall be paid into the treasury                   | 298   |
| 14. Penalty on sheriffs and other officers failing to obey such warrants,                                                               | 73 | 40. Agent not to be subject to the keeper,                                                                | 299   |
| 15. Punishment of persons aiding escaped convicts,                                                                                      | 73 | 41. Duties of watchmen,                                                                                   | 299   |
| 16. Penalty for concealing them,                                                                                                        | 73 | 42. Duties enjoined on the keeper,                                                                        | 299   |
| 17. Proceedings against such convict when re-taken,                                                                                     | 73 | 43. Five per cent. allowed the keeper,                                                                    | 300   |
| All convicts privy to the escape of any one, liable to pay the debts due from him,                                                      | 74 |                                                                                                           | 1806. |
| 18. The wife of any person convicted for more than one year, may apply for alimony,                                                     | 74 | 44. Inspectors discontinued, and governor sole inspector,                                                 | 399   |
| 19. Infant children of a convict considered as orphans,                                                                                 | 74 | 45. His duty as such,                                                                                     | 400   |
| 20. Convicts liable to be sued, and how,                                                                                                | 74 | 46. Style of the institution,                                                                             | 400   |
| 21. May, by will, devise his estate,                                                                                                    | 75 | 47. Duty of the keeper,                                                                                   | 400   |
| 22. The time he was confined in the penitentiary, shall not be brought into account in any civil suit under any statute of limitations, | 75 | 48. Keeper to purchase medicines and administer them,                                                     | 400   |
| 23. Mode of visitalling convicts,                                                                                                       | 75 | 49. To lay before the governor once a year, an account of medicines and physicians' charges,              | 400   |
| 24. Inspectors may employ watchmen, and their duty,                                                                                     | 75 | 50. Agent to pay certain accounts,                                                                        | 400   |
| 25. Punishment of watchmen for an escape of any convict while on duty,                                                                  | 75 | 51. Powers of the keeper,                                                                                 | 400   |
| 26. How the watchmen are to be paid,                                                                                                    | 75 | 52. Keeper may inflict punishment, and how,                                                               | 400   |
| 27. The governor may appoint an agent of the penitentiary, and his duty,                                                                | 76 | 53. How keeper and agent may be removed,                                                                  | 400   |
| 28. His salary, and how paid,                                                                                                           | 76 | 54. Keeper may discharge watchmen, &c.                                                                    | 401   |
| 29. Allowance to the clerk of inspectors,                                                                                               | 76 | 55. Addition to keeper's salary, how paid,                                                                | 401   |
| 30. The keepers, agent and watchmen to give bond to the governor, instead of the county court,                                          | 76 | 56. Agent's salary, how paid,                                                                             | 401   |
| Penalty of their bonds,                                                                                                                 | 76 | 57. Replevin and forthcoming bonds prohibited on contracts made with the agent of the penitentiary,       | 401   |
| 31. The governor may remove the keeper, agent, or watchmen, on the                                                                      |    | 58. Agent may appoint agents,                                                                             | 401   |
|                                                                                                                                         |    | 59. Duty of the agent regulated,                                                                          | 401   |
|                                                                                                                                         |    | PERSONS OF UNSOUND MIND.                                                                                  | 1804. |
|                                                                                                                                         |    | The funeral expenses of persons of un-                                                                    |       |

Sound mind shall be paid in the same manner as the expenses of their maintenance, 169, &c.

### PETITION AND SUMMONS.

- 1805.
1. Persons holding a note or bond, how to proceed, 319
2. Petition, form thereof, 320
3. If an endorsee, assignment must be recited, 320
4. Copy of the petition and summons must be sent out and served by the sheriff, 320
5. Suit not to go to the rules, 320
6. Sheriff, &c. to note the day of executing it, 320
7. Continuance may be had for good cause, 320
8. No declaration necessary, 320
9. Interlocutory judgment may be taken if the defendant fails to appear, 320
10. Acts of jeofails, when to apply, 321
11. Persons may still sue in the ordinary way, 321
12. Sheriffs' and clerks' fees, 321

### PLATTS AND CERTIFICATES.

- 1803.
1. Further time of twelve calendar months allowed to return platts and certificates of survey, 119
- 1804.
2. Further time of two years given to return platts and certificates of survey to the register's office, 168
- 1806.
3. Two years further time allowed to return platts and certificates of survey to the register's office, 330
- 1807-8.
4. Further time of two years given to return platts and certificates of survey to the register's office, 525

### PORK.

See beef and pork.

### POOR.

- 1803.
- The county courts may employ physicians, and pay them out of the county levy in behalf of poor persons, 133

### POSTAGE.

- 1804.
- Governor authorized to pay the postage on military commissions and commu-

nications to field officers, and draw on the treasury therefor, 235  
**PRESIDENT OF THE U. STATES.**  
 1807-8.

Act for election of, 526

### PRISON BREAKING.

- 1802.
1. Person breaking prison liable to action, 59
2. Proceedings thereon, 59
3. Proceeds therefrom, how appropriated, 59
4. Persons aiding debtors to escape from prison liable to action, 60
5. The party nevertheless may be punished as heretofore, 60

### PUBLIC DEBT.

See debt, public.

### Q.

#### QUAKERS.

See conscientious persons.

### R.

#### RECOGNIZANCE.

How to be taken from infants and *femes covert*—see criminal proceedings, No. 13.

#### RECORDS, DESTRUCTION OF.

See destruction of records.

#### REGISTER.

- 1804.
1. How the register may obtain compensation for advertising and exposing to sale non-residents' lands, 210
2. Regulations for insuring uniformity in the books of the register, auditor, and treasurer, 210
- 1805.
3. Present register authorized to make conveyances of lands sold by a former register, 312
4. May make it to the assignees of the original purchasers, 314
5. Regulations respecting his office, 314
6. Clerks in his office shall take oath, 314

#### REPORTS.

- 1807-8.
1. Reports of cases decided in England since 1776, not to be read as authority in our courts, 457
2. Reports of cases decided in the court of appeals, to be procured, and how, 486

#### REPRESENTATION OF THE STATE.

- 1803.
1. An act regulating it, 147

- 1807-8.  
 4. An act fixing the ratio of, 452  
**REVENUE.**  
 1805.  
 1. Rules and rates by which land shall be entered, 309  
 2. Criterion of lands, 309  
 3. Commissioners' books how to be distributed, 309  
 4. Revenue when to be accounted for, 309  
 Penalty on sheriffs, &c. 309  
 5. Lists of insolvents, when and how to be made out and returned, 310  
 6. Proceedings against sheriff, &c. failing to pay revenue, 310  
 7. Against clerks failing to pay tax, 311  
 8. Lien on lands and slaves, when it attaches, 311  
**RIOTS, ROUTS, &c.**  
 1802:  
 1. Riots, routs, &c. how to be suppressed 55  
 2. Offenders may be imprisoned, 56  
 3. Proceedings where the offenders have departed, 56  
 4. Penalty on jurors making default, 56  
 5. Penalty on sheriffs making default, 56  
 6. Duty of the justices, 56  
 7. Penalty on the justices for a failure of duty, 57  
 8. Allowance to sheriffs, &c. 57  
 9. Offenders subjected to costs, 57  
 10. When a prosecutor shall pay costs, 57  
**ROADS.**  
 1803.  
 1. Counties may be laid off into precincts, and a surveyor of roads appointed in each precinct, 126  
 2. Shall continue in office until another be appointed, 126  
 3. Shall be subject to the same duties and penalties that other surveyors of roads are, 126  
 1804.  
 4. Clerks of county courts to furnish clerks of circuit courts with lists of the surveyors of roads, 245  
 5. To be laid before the grand jury, 246  
 6. Further duties of county court clerks, 246  
 7. Sheriffs to deliver copies of the orders to the surveyors, 246  
 1807-8.  
 8. Duty of sheriffs upon receipt of an order appointing a surveyor of a road, 459  
 9. Copy of the order to be returned with an endorsement, 459  
 10. Shall be evidence, 459  
 11. Sheriff to give a receipt to the clerk for such copy, 459  
 12. Further duties of the sheriff, 459  
 13. Further duties of the clerk, 459  
 14. Penalty on surveyor, 459  
 15. Duty of surveyors where a water course divides their precincts, 459  
**ROAD, TURNPIKE.**  
 See turnpike road.  
**ROAD, STATE.**  
 See state road.  
**S.**  
**SALES OF LAND FOR TAXES.**  
 1802.  
 1. Non-residents' lands not to be sold for taxes until 1804, 83  
 2. Shall pay 50 per cent. per annum on the tax due and unpaid, 83  
 3. The principal and damages shall be a lien on the land, 83  
 4. The manner in which purchasers at the register's sales are to proceed, 84  
 5. Penalty for failure, 84  
 6. Register not to permit persons to mark their names to pay taxes, 84  
 7. Infants not permitted to bid, 84  
**SALT LICKS.**  
 1802.  
 1. Salt licks and springs may be appropriated by location, 49  
 2. On what terms, 49, 50  
**SEALS.**  
 1804.  
 1. Circuit courts to procure seals, 234  
 2. Price of, and how to be paid, 234  
**SECRETARY OF STATE.**  
 1805.  
 1. Salary of the secretary increased, 304  
 2. Allowed to employ an assistant under certain restrictions, 304  
**SENATORIAL DISTRICT.**  
 1805.  
 Formed, 250  
**SETTLERS.**  
 1802.  
 1. Clerks of courts to transmit certificates of settlement to the register, 60  
 2. Future certificates to be transmitted, 60  
 3. Compensation therefor, 61  
 4. Penalty for neglect, 61  
 5. Where settlement rights have, through mistake, been located on appropriated lands, the treasurer shall allow, as a credit for other lands, all money paid, &c. 79  
 6. Mode of proceeding therein, 79

7. A survey of vacant lands may be made before a warrant is obtained, 1803. 79
8. Further time of two years given to the Green river settlers to survey and return plats and certificates, 1803. 151
9. When the auditor's *quittus* for the whole amount due on a head-right shall be produced to the register, he shall receive the platt and certificate of survey, and issue a grant, 1804. 142
10. No settlement claim taken up under any law, shall be forfeited on account of a salt lick spring, or mine of mineral being included in it, 1804. 175
11. No person having taken up land under any special act of assembly, shall be permitted to withdraw his certificate therefor, 1804. 175
12. County courts restricted in granting settlement claims, 1804. 196
13. Claims granted on military or appropriated land, how they may be removed, 1804. 196
14. Platts and certificates made assignable, 1806. 196
16. Act authorizing county courts to grant certificates, repealed, 1806. 406
17. Powers vested in the circuit courts, 1806. 406
18. Limitation and restriction, 1806. 406
- SHERIFFS.**
1. What commission sheriffs shall be entitled to, 1803. 144
2. Certain fees allowed them, 1803. 144-5
3. Sheriffs to collect county levies from delinquents, and account for them, 1803. 145
4. To collect the fees of other sheriffs, 1803. 145
5. Allowance for horse hire, 1803. 146
6. Sheriff of Franklin to attend the general court, 1804. 146
7. To what fees sheriffs shall be entitled for apprehending a person on a charge of felony, 1804. 169
8. Sheriffs, when to account for the revenue, 1806. 341
9. Penalty for a failure, 1806. 341
10. When they pay more money than is due, how to be reimbursed, 1806. 342
- SLAVES.**
1. Any person suffering his slave to go at large and hire himself, shall forfeit 20 pounds, 1802. 24
2. Several sections of a former act repealed, 1806. 25
- SLAVES, TRIAL OF.**
1. Courts to assign counsel to slaves, where the owner fails to employ any, 1806. 403
2. Counsel's fee, and how paid, 1806. 403
3. Crimes punishable with stripes deemed misdemeanors, and how to be proceeded on, 1806. 403
4. Fee to the officer, 1806. 403
- STATE BOUNDARY.**
- See boundary.
- STATE ROAD.**
- 1807-8.
1. Commissioners appointed to view and mark a way from Paris to Big Sandy, 1807-8. 461
2. When and where to meet, 1807-8. 461
3. To make report, 1807-8. 461
4. Persons injured by the road, how to be redressed, 1807-8. 461
5. Commissioners to obtain subscriptions, 1807-8. 462
6. How to be collected and applied, 1807-8. 462
7. To cause the road to be opened, 1807-8. 462
8. Compensation to sheriff, 1807-8. 462
9. County courts to have the road kept in repair, 1807-8. 462
10. Compensation to commissioners, 1807-8. 463
11. Road declared a public highway, 1807-8. 463
- STATE BANK.**
- 1806.
1. Bank established, 1806. 390
2. Stock and number of shares, 1806. 390
3. Subscriptions to be opened, and where and when, 1806. 390
4. Reserved shares how to be subscribed for, 1806. 391
5. Shares to be paid in five instalments, 1806. 391
6. Subscribers incorporated, 1806. 391
7. Style and duration, 1806. 391
8. Powers of the corporation, 1806. 391
9. Directors and president, how to be chosen, 1806. 392
10. Proviso, 1806. 392
11. Vacancies how to be filled, 1806. 392
12. Legislature may increase the directors, 1806. 392
13. Commissioners when to make returns, and to whom, 1806. 392
14. When the bank shall go into operation, 1806. 393
15. Duty of the Frankfort commissioners, 1806. 393
16. First election of president and directors, 1806. 393
17. Term of service, 1806. 393

18. Cashier and other officers to be appointed, 393
19. Power of the president and directors, 393
20. Constitution of the bank, 394
21. Votes by the stockholders, 394
22. Limitation, 394
23. Stockholders may vote by proxy, 394
24. Directors and president must be stockholders, 394
25. Directors of other banks not eligible, 394
26. Entitled to no emolument except that allowed by the stockholders, 394
27. Not less than five to constitute a board, 394
28. Who may call a general meeting, 395
29. Cashier, &c. to give bond and security, 395
30. What may be held by the corporation, 395
31. May issue notes to a certain amount, 395
32. Directors liable if they exceed the limitation, 395
33. Unless absent or dissentient, 395
34. Corporation cannot trade unless in bills, money or goods, pledged and not redeemed, 396
35. Rate of interest six per cent, 396
36. Loans restricted to residents of this state, 396
37. Loan to a director cannot exceed 5000 dollars, 396
38. Stock made transferable, 396
39. Bills of credit assignable by endorsement, 396
40. Notes payable to any person or bearer, binding, 396
41. How assignable and negotiable, 396
42. Notes discounted, recoverable as foreign bills of exchange, 397
43. Dividends to be made half yearly, 397
44. Statement of accounts to be laid before the stockholders, 397
45. Subscribers failing to pay, get no dividend, 397
46. Offices of discount and deposit, how to be established, 397
47. Weekly statements to be furnished the governor, and the legislature annually, if required, 397
48. Dividends, how to be made, 398
- Penalty for dealing contrary to this act, 398
49. Notes, &c. receivable in payment to the state, 398
50. Governor to certify to the auditor when he subscribes for state shares, 398
51. Balance reserved for legislative disposition, 399
52. What notes negotiable at the bank, 399
53. Legislature may modify this act, under certain restrictions, 1807-8. 399
54. The president and directors to certify to the auditor the amount of the state's dividend, 454
55. Treasurer to attend at the bank and receive it, 454
56. The bank shall pay auditor's warrants which cannot be discharged by the treasurer, 528
57. Duty of the treasurer, 452, 528
- SURVEYORS, DELINQUENT.**  
See delinquent surveyors.
- SURVEYORS' FEES.**  
1802.
1. Trustees of academies liable to pay surveyors for surveying the donation lands, 36
2. Surveyors' fees reduced, 1804. 34-8
- SURVEYORS.**  
1806.
1. Surveyors to take an oath, 405
2. Form thereof, 405
3. To give bond and security, 405
4. Which may be sued on, and by whom, 405
5. Surveyors now in office to give bond, 405
6. Penalty for refusing, 405
7. Second and third sections of the act of 1792 revived, 406
- SWINE.**  
1803.
1. The law preventing owners of mills from permitting swine to run at large for want of a sufficient quantity of land repealed, 112
2. Swine not permitted to run at large at any mill within one mile of any town, 112
- T.**
- TAVERN KEEPERS.**  
1804.
1. County court clerks to make out a list of tavern keepers, and deliver it to the clerk of the circuit court, 246
2. To be laid before the grand jury, 246
3. Penalty for failure, 246
- TAXES.**  
1803.
1. Additional tax, and what, 157
2. From what time the interest on the tax of non-residents' lands should be calculated, 158



1804.  
3. County courts not to allow a delinquent lift, unless the sheriff takes a particular oath, 179  
4. Form of the oath, 180  
5. Duty of the county court, 180  
6. Sheriff's duty, 180  
7. Further duty of the court, 180  
8. Duty of the clerk, 180  
9. High sheriff to return defaulters, 180  
10. Regulations respecting the sheriff, 180  
11. Regulations respecting the commissioners, 181
- TITLE PAPERS.**  
1802.  
1. Rowland Thomas appointed agent for this commonwealth, 58  
2. To demand and receive from the land-office of Virginia, title papers to lands in the forks of Sandy, 58  
3. Such lands to be entered for taxation, 58  
4. This act to be advertised in Washington and Richmond, 58  
5. Compensation to Rowland Thomas, 58
- TOBACCO.**  
1807-8.  
1. The law authorizing classing tobacco repealed, 526  
2. Refused tobacco not to be burnt, 526  
3. Owner may dispose of it as he shall think proper; but not to be repacked, &c. 526
- TREASURER.**  
See auditor and treasurer.
- TURNPIKE ROAD.**  
1802.  
1. Keeper of the turnpike appointed, 52  
2. May keep a deputy, 52  
3. Keeper to give bond and security, 52  
4. His allowance, 53  
5. To render account to commissioner, 53  
6. Rates of toll, 53  
7. Postriders, &c. excepted, 53  
8. Penalty for attempting to pass without paying toll, 53  
9. Proviso as to those unable to pay, 53  
10. Commissioner to be appointed, 53  
11. Laborers misbehaving, how to be dealt with, 54  
12. Commissioner to transmit books to the governor, 54  
13. His allowance, 54  
14. Allowance to clerk, 54  
15. Commissioner to give bond, 54  
16. Continuance in office of commissioner and keeper, 55  
17. Rates of toll to be fixed up, 55
1803.  
18. Part of the former law repealed, 129  
19. Titheables within a certain distance to labor on the road, 129  
20. Penalty for failure, 129  
21. How to be recovered, 129  
22. The gate may be removed on certain conditions, 126
1804.  
23. Road from Joe's Lick to the Crab Orchard road to be cleared, 210  
24. Surveyor to be appointed, and his duties, 211  
25. Madison county court may lay out a new road, 211  
26. Commissioners to be appointed, 211  
27. To give bond and security, 211  
28. Duty of the keeper of the turnpike, 211  
29. Allowance to commissioners, 211  
30. They shall render a statement on oath, 211  
31. Certain parts of the road to remain under the superintendence of the former commissioners, 212  
32. Power of Knox county court over a part of the wilderness road, 212  
33. Further duties of the keeper, 212
1805.  
34. Keeper of the turnpike to be appointed annually, and his duty, 282  
35. To keep a book, and for what purpose, 283  
36. May appoint a deputy, 283  
37. Penalty on the keeper, 283  
38. Keeper to give bond with security, 283  
39. Penalty and condition of the bond, 283  
40. Proceedings for a breach of the condition, 283  
41. Road to be kept in repair, and how, 283  
42. To be laid off into precincts, 284  
43. How and in what cases the road may be altered, 284  
44. Proviso, 284  
45. Commissioners to be appointed, and their duty, 284  
46. To give bond with security, 284  
47. Proceedings thereon, 284  
48. May be removed, 284  
49. Keeper to pay, and to whom, 285  
50. Money, how to be appropriated, 285  
51. Allowance to commissioners, 285  
52. Commissioners to make a statement, &c. 285  
53. Rates of toll, 285  
54. Proviso, 285  
55. Penalty for attempting to pass without paying toll, 285  
56. Proviso, 286
- 4 C

57. Amount of the receipts to be transmitted to the governor, and when, 286  
 58. Lifts of the rates of toll to be set up, 286  
 59. Keeper and commissioners, duties enjoined on, 286  
 60. To pay money, deliver tolls, &c. 286  
 61. Penalty, and how recovered and applied, 286  
 1807-8.  
 62. Part of the act of 1805 repealed, 510  
 63. Powers vested in the directors, 510  
 64. How directors are to be appointed, 510  
 65. To keep the road in repair, 510  
 66. To lay it off into precincts, 510  
 67. To appoint commissioners, 510  
 68. Their compensation, 510  
 69. Directors may alter the road, 510  
 70. Toll to be paid to the directors, 510  
 71. When settlement of tolls to be made, 510  
 72. Directors shall annually report to the governor the expenditure, 511  
 73. Directors to settle with the turnpike keeper, 511  
 74. Commissioners appointed to superintend the erection of a bridge, 511  
 75. Shall give notice, and where, 511  
 76. Commissioners to take bond from the undertaker, 512
- U.

## UNITED STATES.

1803.  
 1. The jurisdiction of five acres and six square poles in New-Port, Campbell county, yielded to the United States, 142  
 1804.  
 2. A provision for the reimbursement by the United States, of claims for military services rendered by the citizens of this state, 203-4

## V.

## VACANT LANDS.

1803.  
 1. The whole or part of the land mentioned in a certificate, may be surveyed, 132  
 2. Where the warrant has, by mistake, been directed to a county different from that in which the land lies, it shall be surveyed by the surveyor of the county where it lies, 132  
 3. Grants by commissioners or county courts, through mistake, of lands lying out of the county, mentioned in the certificate, confirmed, 132  
 4. The money due for vacant lands to be paid by equal instalments, 134
5. When payable, 134  
 6. Rate of interest, 134  
 7. Persons who may hereafter settle on vacant lands under the former acts, to have the benefit of the provisions of this act, 134  
 8. Lien of the state to remain unimpaired, 135  
 9. Power reserved to the legislature to coerce payment, 135  
 10. Lands subject for state price, 135  
 11. Proviso as to interfering claims, 135  
 12. Military warrants prohibited from being located on the lands of settlers, 135  
 13. Patents for military claims not to issue for nine months, 135  
 14. Surveys, when to be made and registered, 135  
 15. Forfeitures abolished, 135  
 1806.  
 16. Time of obtaining certificates for, extended in certain cases, 360  
 17. In what cases certificates may be granted, 360  
 18. Validity of the certificates may be enquired into, 360  
 19. Prohibited from being granted for certain lands, 360  
 20. Not to be granted after the first day of September next, 360

## VENUE, CHANGE OF.

1802.  
 1. Ten days notice shall be given of an application for a change of venue, 7  
 2. The judge granting the change shall certify the notice to the clerk of the court where the suit was commenced, 7  
 1803.  
 3. For what causes the venue may be changed, 152  
 4. Mode to be pursued in obtaining a change, 152  
 5. Papers, how to be transmitted from one court to the other, 152  
 6. Duty of the clerk receiving the papers, 152  
 7. Penalty for taking a false oath in order to obtain a change of venue, 153  
 8. Expenses of removal, by whom and when to be paid, 153  
 9. Responsibility of the clerk, 153  
 10. In what cases the venue shall not be changed, 153  
 11. Cause not to be removed to the circuit where either party resides, 153  
 12. Notice to be given of an intended application for a change of venue, 153  
 13. Such notice to be certified by the

- judge awarding the change, to the clerk of the court where suit was commenced, 1804. 154
14. Parties, by consent, may have an order to remove suits, 189
15. Courts to which removed, shall have jurisdiction, 189
- W.
- WARLIKE ENTERPRIZES.
- Act against, [expired] 1806. 370
- WATER COMPANY, IN FRANK-FORT.
- Incorporated, 1805. 287
- WATER-WORKS.
- See Kentucky river.
- WOLVES.
- Killing of, act concerning, [repealed] 1803. 101
- WRITS OF ELECTION.
- If a member of the senate resigns or dies during the recess of the legislature, the governor may issue a writ of election, 1802. 91
- WRITS OF ERROR.
1. Writs of error from the court of appeals shall not issue on forthcoming or replevin bonds, 1802. 92
2. Party injured may have redress by motion or writ of error *coram vobis*, 92
3. How *superfedeas* may be obtained on a writ of error *coram vobis*, 92
4. At what time a motion to amend or quash a forthcoming or replevin bond shall be made, 92
5. Writs of error *coram vobis* returnable to the first day of the next term, and how docketed, 93
6. Ten per cent. damages on all judgments affirmed, dismissed, &c. 1803. 93
7. Ten days notice to be given of an application for a writ of error *coram vobis*, 120
8. The errors to be assigned and a copy of the bond or execution to be produced, 120
9. The judge shall award a *superfedeas* for so much as he thinks erroneous, and for no more, 120

## INDEX TO THE LOCAL ACTS.

|                                            |     |                                           |     |
|--------------------------------------------|-----|-------------------------------------------|-----|
| <b>A.</b>                                  |     | <b>AUGUSTA, TOWN OF.</b>                  |     |
| <b>ACADEMY IN FRANKLIN.</b>                |     | 1802.                                     |     |
| Amendatory act concerning,                 | 1   | Act concerning,                           | 148 |
|                                            |     |                                           |     |
| The acts concerning it amended,            | 255 |                                           |     |
| <b>ACADEMY, SUMMERSETT.</b>                |     | <b>B.</b>                                 |     |
|                                            |     | <b>BAIRDSTOWN.</b>                        |     |
| Incorporated,                              | 37  | 1802.                                     |     |
| <b>ACADEMY, WINCHESTER.</b>                |     | Act concerning,                           | 9   |
|                                            |     | 1804.                                     |     |
| Amendatory act concerning,                 | 101 | Act of 1802 amended,                      | 165 |
|                                            |     | 1805.                                     |     |
| An act for its benefit,                    | 474 | The acts concerning it amended,           | 254 |
| <b>ACADEMY, WOODFORD.</b>                  |     | 1807-8.                                   |     |
|                                            |     | Trustees of, authorized to make further   |     |
| Act concerning,                            | 181 | by-laws,                                  | 469 |
| <b>ACADEMY, RITTENHOUSE.</b>               |     | <b>BARREN COUNTY.</b>                     |     |
|                                            |     | 1803.                                     |     |
| Trustees of, permitted to sell their dona- |     | An election precinct formed in it,        | 103 |
| tion lands,                                | 244 | <b>BEECH FORK.</b>                        |     |
| <b>ACADEMY, NEW-ATHENS.</b>                |     | 1802.                                     |     |
|                                            |     | Mills authorized to be built on it,       | 80  |
| Act concerning,                            | 302 | 1805.                                     |     |
| <b>ACADEMIES, NEWTON &amp; LOGAN.</b>      |     | Navigation of, to be kept open,           | 314 |
|                                            |     | <b>BRIDGE AT FRANKFORT.</b>               |     |
| Act concerning,                            | 409 | 1805.                                     |     |
|                                            |     | John Pope authorized to erect one,        | 280 |
| Newton,                                    | 441 | John Brown, do.                           | 311 |
| <b>ACADEMY, MONTGOMERY.</b>                |     | Thomas Tunstall, do. <i>sb.</i>           | 306 |
|                                            |     | <b>C.</b>                                 |     |
| Act concerning,                            | 438 | <b>CASEY COUNTY.</b>                      |     |
| Act for its benefit,                       | 474 | 1806.                                     |     |
| <b>ACADEMY, BOURBON.</b>                   |     | Formed,                                   | 325 |
|                                            |     | Act concerning,                           | 414 |
| Trustees may sell their donation lands,    | 468 | 1807-8.                                   |     |
| <b>ACADEMY, JEFFERSON.</b>                 |     | Part of it added to Lincoln,              | 470 |
|                                            |     | <b>CENTREVILLE, TOWN OF.</b>              |     |
| Act relative thereto,                      | 489 | 1806.                                     |     |
| <b>ADAIR COUNTY.</b>                       |     | Act concerning,                           | 354 |
|                                            |     | <b>CHRISTIAN COUNTY.</b>                  |     |
| Part of it added to Wayne,                 | 112 | 1806.                                     |     |
| <b>AUDITOR'S OFFICE.</b>                   |     | Surveyor of, to record certain platts and |     |
|                                            |     | certificates,                             | 337 |
| Act concerning,                            | 220 | <b>CLARKE COUNTY.</b>                     |     |
|                                            |     | 1804.                                     |     |
|                                            |     | Courts of, terms lengthened,              | 188 |

## CLAY COUNTY.

Formed, 1806. 338  
COURTS.

1806.  
Of Scott and Henderson, terms extended, 336  
See also general index,

## CUMBERLAND COUNTY.

1804.  
A small part of it added to Adair, 172  
1805.  
The act of 1804 amended, 251

## CYNTHIANA, TOWN OF.

1802.  
Act concerning, 2  
1805.  
Act of 1802 amended, 325

## D.

## DANVILLE, TOWN OF.

1803.  
Trustees, their election, &c. 136  
1806.  
Acts concerning, 377, 410

## E.

## EAGLE CREEK.

1807-8.  
Navigation of, 513

## ELECTION PRECINCTS.

1802.  
Formed in Wayne, 3  
1803.  
Formed in Barren county, 103  
1804.  
Formed in Greenup, Adair, Floyd,  
Knox, Henderson, Ohio and Warren, 172  
Supplemental provision concerning, 244  
1805.  
Election precincts formed in Floyd,  
Maton and Ohio counties, 255  
Part of a former act concerning, repealed, 259  
Formed in Pendleton county, 319  
1806.  
Election precinct formed in Logan, 344  
Formed in Clay and Floyd, 410  
In Pendleton, 413

1807-8.  
Election precincts established in Cum-  
berland, Bracken, Livingston and  
Boone, 487  
Altered in Pendleton, 487

## ELIZABETHTOWN.

1804.  
Its name changed to Hopkinsville, 183

## ESTILL COUNTY.

1807-8.  
Formed, 441  
Supplemental act concerning, 473

## F.

## FAYETTE COUNTY.

1803.  
Court, records of, &c. 154  
1804.  
Commissioners continued in office until  
1808, 178  
1806.  
The term of its circuit court altered, 331  
1807-8.  
County court of, vested with the pow-  
ers given the commissioners, 446

## FLOYD'S FORK.

1807-8.  
Navigation of, 474

## FRANKFORT, TOWN OF.

1802.  
Amendatory act concerning, 14  
1805.  
The several acts concerning it, amended, 251  
Water company in, incorporated, 287

## G.

## GALLATIN COUNTY.

1805.  
Seat of justice in, fixed, 247

## GEORGETOWN.

1803.  
Act concerning, 113  
1804.  
Amendatory act concerning, 197

## GREEN COUNTY.

1804.  
Line of, altered, 198

## GREEN RIVER.

1807-8.  
Navigation of, 467

## GREENUP COUNTY.

1803.  
Formed, 117

## H.

## HARDIN COUNTY.

1804.  
Line of, 198

## HARTFORD, TOWN OF.

1807-8.  
Established, 443

HEMP-MILL COMPANY, MADISON.  
1807-8.

Incorporated, 532

## HOPKINS COUNTY.

|               |       |     |
|---------------|-------|-----|
| Formed,       | 1806. | 346 |
| HOPKINSVILLE. | 1806. |     |
| Town of,      |       | 367 |

## I.

## INSPECTIONS.

|                                     |         |          |
|-------------------------------------|---------|----------|
| Sundry established,                 | 1802.   | 23       |
| Do.                                 | 1803.   | 123      |
| Do.                                 | 1804.   | 242      |
| Do.                                 | 1806.   | 332, 337 |
| Do. and ware-house,                 | 1807-8. | 384      |
| Inspection established in Woodford, |         | 437      |
| Do. in South Frankfort,             |         | 439      |
| Sundry established,                 |         | 450      |
| Do.                                 |         | 513, 514 |

## J.

## JUSTICES OF THE PEACE

|                                       |         |     |
|---------------------------------------|---------|-----|
| Additional number allowed in Macon,   | 1802.   |     |
| Floyd, Barren, Cumberland, Lincoln,   |         |     |
| Logan and Mercer counties,            | 1803.   | 82  |
| Additional number allowed in Warren,  |         |     |
| Green, Franklin, Henderson, Pendle-   |         |     |
| ton, Christian, Cumberland, Mont-     |         |     |
| gomery, Nicholas, Hardin, Henry,      |         |     |
| Muhlenberg, Livingston, Wayne,        |         |     |
| Nelson, Ohio, Fleming and Madi-       |         |     |
| son,                                  | 1804.   | 143 |
| Additional number allowed in Lincoln, |         |     |
| Madison, Scott, Nelson, Shelby, Fle-  |         |     |
| ming, Ohio, Washington, Bullitt,      |         |     |
| Logan, Barren, Montgomery, Green-     |         |     |
| up, Floyd, Livingston, Pulaski, Gar-  |         |     |
| rard, Clarke, and Mercer,             | 1805.   | 186 |
| Additional number allowed in Knox,    |         |     |
| Green, Pulaski, Christian, Gallatin,  |         |     |
| Pendleton, Adair, Fayette, Hardin,    |         |     |
| Bourbon, Bullitt, Ohio, Montgome-     |         |     |
| ry, Madison, Clarke, and Jefferson,   | 1806.   | 308 |
| Additional number allowed in Nelson,  |         |     |
| Brecken, Scott, Logan, Brecken-       |         |     |
| ridge, and Woodford,                  | 1807-8. | 343 |
| Additional number allowed in Cumber-  |         |     |
| land, Wayne, Barren, Nicholas, Muh-   |         |     |

lenberg, Floyd, Clarke, Franklin,  
Bourbon, Jefferson, and Pulaski,  
Number limited in Clay, Lewis, Estill,  
Caley, and Hopkins, 529

## L.

## LEWIS COUNTY.

|                                          |         |     |
|------------------------------------------|---------|-----|
| Formed,                                  | 1806.   | 332 |
| LEXINGTON.                               | 1802.   |     |
| Trustees of, authorized to levy and col- |         |     |
| lect money,                              | 1804.   | 35  |
| Streets of, may be extended by the coun- |         |     |
| ty court of Fayette,                     | 1806.   | 270 |
| Streets to be paved,                     | 1807-8. | 207 |
| Lexington, amendatory act concerning,    |         | 411 |

## LIBRARY COMPANY.

|                         |         |     |
|-------------------------|---------|-----|
| Lancaster incorporated, | 1804.   | 208 |
| Paris incorporated,     | 1807-8. | 452 |

## LICKING.

|                                          |       |     |
|------------------------------------------|-------|-----|
| South and Stoner's forks of, navigation, | 1802. | 32  |
| Do.                                      | 1804. | 193 |
| Do. mills on,                            | 1806. | 354 |

## LINCOLN COUNTY.

|                                         |       |     |
|-----------------------------------------|-------|-----|
| Surveyor's books of, to be transcribed, | 1803. | 102 |
|-----------------------------------------|-------|-----|

## LOUISVILLE.

|                                 |         |     |
|---------------------------------|---------|-----|
| Amendatory act concerning,      | 1802.   | 2   |
| Do.                             | 1803.   | 141 |
| The acts respecting it amended, | 1805.   | 273 |
| Act concerning,                 | 1807-8. | 493 |

## M.

## MADISON COUNTY.

|                                      |         |     |
|--------------------------------------|---------|-----|
| Part of it added to Knox,            | 1804.   | 182 |
| Madison hemp mill company incorpora- | 1807-8. | 532 |
| ted,                                 |         |     |

## MASON COUNTY.

|                                             |       |     |
|---------------------------------------------|-------|-----|
| The acts for the relief of its citizens re- | 1805. | 253 |
| pealed,                                     |       |     |

## 615

|                                       |          |                                     |         |
|---------------------------------------|----------|-------------------------------------|---------|
| MAYSVILLE, TOWN OF.                   | 1803.    | Do.                                 | 1806.   |
| Act concerning,                       | 1804     | S.                                  | 346     |
| Act of 1803 amended,                  | 1805.    | SALSBERRY, TOWN OF.                 | 1806.   |
| Act concerning,                       | 1807 8.  | Act establishing,                   | 369     |
| MOUNTSTERLING, TOWN OF,               | 466      | SALT RIVER.                         | 1807-8. |
| Amendatory act concerning,            | 1806.    | Navigation of,                      | 490     |
| P.                                    | 352      | SHELBYVILLE, TOWN OF.               | 1803.   |
| PARIS, TOWN OF.                       | 1806.    | Amendatory act concerning,          | 143     |
| Acts regulating it amended,           | 343      | Do.                                 | 415     |
| PORT-WILLIAM, TOWN OF.                | 1805.    | SHEPHERDSVILLE, TOWN OF.            | 1807-8. |
| Amendatory act concerning,            | 250      | Act concerning,                     | 476     |
| R.                                    |          | V.                                  |         |
| RED RIVER.                            | 1805.    | VINEYARD SOCIETY.                   | 1803.   |
| Navigation of, to be kept open,       | 249      | Incorporated,                       | 339     |
| ROADS.                                | 1802.    | WARE-HOUSES.                        |         |
| Act for opening one to Big Sandy,     | 4        | See inspections and general index.  |         |
| From Greensburgh to Tennessee,        | 21       | WARREN COUNTY.                      | 1807-8. |
| To Sandy,                             | 1804:    | Permanent seat of justice fixed in, | 447     |
| From Georgetown to Augusta,           | 166      | WASHINGTON, TOWN OF.                | 1805.   |
| From Danville to Tellico,             | 201      | Act concerning,                     | 248     |
| From Danville to Tellico,             | 204      | WATER COMPANY, FRANKFORT,           | 1805.   |
| From Danville to Tellico,             | 1805.    | Incorporated,                       | 287     |
| From Danville to Tellico,             | 275      | WAYNE COUNTY.                       | 1802.   |
| From Greensburgh to Tennessee,        | 1806.    | Made an election precinct,          | 3       |
| To Big Sandy,                         | 336      | WINCHESTER, TOWN OF.                | 1803.   |
| From Newcastle to the mouth of Lick-  | 350      | Amendatory act concerning,          | 144     |
| ing,                                  | 365      |                                     |         |
| From Buckley's ferry to Bairdstown,   | 1807-8.  |                                     |         |
| From Knox court-house towards Pulaski | 463, 535 |                                     |         |
| court-house,                          | 463, 535 |                                     |         |
| ROLLING FORK.                         | 1804.    |                                     |         |
| Navigation of,                        | 199      |                                     |         |

## TABLE OF PERSONAL ACTS.

|                               |          |                                |         |
|-------------------------------|----------|--------------------------------|---------|
| <b>A.</b>                     |          | <b>H.</b>                      |         |
| Allington, Clarinda,          | 193      | Harbert, John,                 | 166     |
| Allen, John,                  | 242      | Hardin, John,                  | 162     |
| Ashby, Daniel,                | 272      | Hall, M. H.,                   | 174     |
| <b>B.</b>                     |          | Hunter, Robert,                | 175     |
| Bland, John,                  | 96       | Hauskins, Polly,               | 299     |
| Brashear, Walter,             | 100      | Hadden, William,               | 344     |
| Brock, Henry,                 | 100      | Hubbard, Simon M.,             | 364     |
| Bush, William,                | 163, 413 | Hardwicke, John,               | 413     |
| Buckner, Robert,              | 163      | Herod, John,                   | 516     |
| Bartholomy, Nancy,            | 163      | <b>J.</b>                      |         |
| Bonta's heirs,                | 165, 166 | Jameson's heirs,               | 97, 163 |
| Bundy, Mary,                  | 170      | Jones, Joshua,                 | 207     |
| Branham, Rachael,             | 171      | Johnston's heirs,              | 450     |
| Brehmer's heirs,              | 217, 470 | Jett, Peggy,                   | 316     |
| Bailey, James,                | 259      | <b>K.</b>                      |         |
| Bilbo, John,                  | 347      | Kennedy, James,                | 163     |
| Bristoe, James,               | 465      | Kennedy, John,                 | 164     |
| Beclor, Eleanor,              | 516      | Kesler, Daniel,                | 465     |
| Butler, William,              | 516      | Kay, John,                     | 509     |
| <b>C.</b>                     |          | <b>L.</b>                      |         |
| Caldwell, Philips and Samuel, | 97       | Lewis, John,                   | 171     |
| Campbell, John,               | 97       | Landreth, David,               | 179     |
| Craig, Elijah,                | 99       | Littell, William,              | 491     |
| Canine, Peter,                | 158      | Long, Thomas,                  | 491     |
| Chapeze, Henry,               | 160      | Littell, James,                | 515     |
| Couchman, Melchi,             | 162      | <b>M.</b>                      |         |
| Ciffill, William,             | 188      | M'Clintock, Joseph,            | 94      |
| Craig, John H.,               | 242      | Metcalf, John,                 | 95      |
| <b>D.</b>                     |          | Myers, Jacob,                  | 98      |
| Davis's heirs,                | 94       | M'Mannus, Mary,                | 161     |
| Davis, John,                  | 162      | Moore, Thomas,                 | 162     |
| Dickison, Nancy,              | 464      | M'Grady, Israel,               | 164     |
| Dunn, James,                  | 516      | Montjoy, Alvin,                | 172     |
| Dooley, Jacob,                | 516      | M'Neff, Polly,                 | 174     |
| <b>E.</b>                     |          | Murrell, George,               | 256     |
| Elliott, John,                | 96, 515  | Martin, James,                 | 345     |
| Elliott, Robert's heirs,      | 203      | Madison, James,                | 346     |
| Ewing, Henrietta,             | 446      | Muter, George,                 | 363     |
| Elkins, Joel,                 | 464      | Moderil, Robert,               | 364     |
| <b>F.</b>                     |          | M'Collister, James and Hannnh, | 466     |
| Flournoy's heirs,             | 99, 301  | Merrimee, William,             | 491     |
| <b>G.</b>                     |          | Meigs, John and Parthenia,     | 509     |
| Gardner, John,                | 161      | <b>N.</b>                      |         |
| Gray, John,                   | 191      | Newell, Samuel,                | 163     |
| Gano, John's executors,       | 305      | Neele's widow and heirs,       | 190     |
| Gunfaulis, Johannah,          | 439      | Neville, James,                | 344     |
| Garrard, William,             | 491      |                                |         |



PERSONAL ACTS.

617

|                          |          |  |                                |     |
|--------------------------|----------|--|--------------------------------|-----|
| <b>O.</b>                |          |  | Sheriff of Jefferson,          | 483 |
| Owley, William,          | 376      |  | Summers, Agnes,                | 94  |
| <b>P.</b>                |          |  | Smith, James,                  | 99  |
| Price, Zachariah,        | 96       |  | Smith, William P.              | 164 |
| Patterson's heirs,       | 97       |  | Shelton, Jeremiah,             | 164 |
| Purtle, Peter,           | 158      |  | Samuels, Robert,               | 355 |
| Price, Abraham,          | 160      |  | Sutton, David,                 | 355 |
| Pennington's heirs,      | 168      |  | Smith, Jonathan,               | 364 |
| Payne, Deacon,           | 191      |  | Stewart, Levi,                 | 512 |
| Pringle, Polly,          | 490      |  | <b>T.</b>                      |     |
| Pendegraft, Mary,        | 515      |  | Todd's heirs,                  | 95  |
| <b>Q.</b>                |          |  | Turner, Richard,               | 97  |
| Quarles, Tunstall,       | 364      |  | Tilford, James,                | 161 |
| <b>R.</b>                |          |  | Taylor, Richard,               | 174 |
| Ruby's heirs,            | 161, 179 |  | Tadlock, John,                 | 196 |
| Rice, Mary,              | 164      |  | Trimble's heirs,               | 243 |
| Ruffell, Edward,         | 170      |  | Thomas's representatives,      | 245 |
| Rodgers, William,        | 193      |  | Trew, Thomas,                  | 356 |
| Riddle, George,          | 364      |  | Thomas, Richard M.             | 446 |
| Reed's heirs,            | 376      |  | Taylor, Thompson,              | 465 |
| Redding, Frances,        | 464      |  | Thurman, John,                 | 465 |
| Rively, William,         | 512      |  | Thomas's executors,            | 474 |
| Robinson, Sarah,         | 516      |  | Taul, Micah,                   | 531 |
| <b>S.</b>                |          |  | <b>V.</b>                      |     |
| Sheriff of Livingston,   | 94, 244  |  | Ver Bryke's heirs,             | 179 |
| Sheriff of Jefferson,    | 94, 411  |  | Van Pradelles, Cassandra Deye, | 191 |
| Sheriff of Montgomery,   | 179      |  | Vance, Joseph,                 | 272 |
| Sheriff of Nicholas,     | 244      |  | Voorhies, Peter G.             | 489 |
| Sheriff of Breckenridge, | 244      |  | <b>W.</b>                      |     |
| Sheriff of Ohio,         | 305, 411 |  | Wood, Charlotte,               | 161 |
| Sheriff of Logan,        | 333      |  | Wallingham, Jarrett,           | 220 |
| Sheriff of Bourbon,      | 336      |  | Ward, James,                   | 364 |
| Sheriff of Mercer,       | 355      |  | Walker, William,               | 414 |
| Sheriff of Floyd,        | 410, 439 |  | Wilson's executrix,            | 446 |
| Sheriff of Henderson,    | 450      |  | Wilson, Robert,                | 465 |
| Sheriff of Hardin,       | 458      |  | Washington, William A.         | 512 |

## INDEX TO THE APPENDIX.

## VOLUME III.

|                                                |       |     |  |
|------------------------------------------------|-------|-----|--|
| <b>A.</b>                                      |       |     |  |
| ACADEMIES.                                     |       |     |  |
| See Salem and Transylvania.                    |       |     |  |
| <b>B.</b>                                      |       |     |  |
| BAIRDSTOWN.                                    |       |     |  |
| Established,                                   | 1788. | 566 |  |
| BEALSBOROUGH.                                  |       |     |  |
| Established,                                   | 1787. | 564 |  |
| BOONESBOROUGH.                                 |       |     |  |
|                                                | 1779. | 538 |  |
| Act for establishing,                          | 1787. | 539 |  |
| Act for establishing, explained and amended,   |       |     |  |
| <b>C.</b>                                      |       |     |  |
| CHARLESTOWN.                                   |       |     |  |
| Established,                                   | 1787. | 562 |  |
| Further time given to build in,                | 1791. | 563 |  |
| <b>D.</b>                                      |       |     |  |
| DANVILLE.                                      |       |     |  |
| Established,                                   | 1787. | 561 |  |
| <b>F.</b>                                      |       |     |  |
| FERRIES ESTABLISHED.                           |       |     |  |
|                                                | 1779. |     |  |
| Across Kentucky river, at Boonesborough,       |       | 585 |  |
|                                                | 1785. |     |  |
| Across Kentucky, at the mouth of Hickman,      |       | 586 |  |
| Across Kentucky, at the mouth of Jack's creek, |       | 586 |  |
| Across Kentucky, at Stone Lick,                |       | 586 |  |
| Across the Ohio, at the mouth of Silver creek, |       | 586 |  |
| Across the Ohio, to the mouth of Mill run,     |       | 586 |  |
|                                                | 1786. |     |  |
| Across Kentucky, at Frankfort,                 |       | 558 |  |
| Across Kentucky, at the mouth of Dick's river, |       | 561 |  |
|                                                | 1791. |     |  |
| Across Cumberland river, in Lincoln county,    |       | 586 |  |
| <b>FRANKFORT.</b>                              |       |     |  |
| Established,                                   | 1786. | 557 |  |
| Act establishing, amended,                     | 1787. | 558 |  |
| <b>G.</b>                                      |       |     |  |
| GEORGETOWN.                                    |       |     |  |
| Established,                                   | 1790. | 570 |  |
| <b>GRANT OF LAND.</b>                          |       |     |  |
|                                                | 1778. |     |  |
| To Richard Henderson and company,              |       | 587 |  |
| <b>H.</b>                                      |       |     |  |
| HARRODSBURG.                                   |       |     |  |
| Established,                                   | 1785. | 552 |  |
| Further time to build in,                      | 1789. | 546 |  |
| <b>HENDERSON, RICHARD.</b>                     |       |     |  |
| See grant,                                     |       | 587 |  |
| <b>HOPEWELL, (PARIS.)</b>                      |       |     |  |
| Established,                                   | 1789. | 563 |  |
|                                                | 1790. |     |  |
| Act establishing it, amended,                  |       | 569 |  |
| Its name changed,                              |       | 570 |  |

I.

INSPECTIONS ESTABLISHED.

|                                                                    |       |     |
|--------------------------------------------------------------------|-------|-----|
|                                                                    | 1783. |     |
| At the mouth of Hickman,                                           |       | 580 |
| At the Falls of Ohio,                                              |       | 580 |
| At Lee's Town,                                                     |       | 580 |
|                                                                    | 1787. |     |
| At Harrod's Landing                                                |       | 582 |
| At the mouth of Hickman,                                           |       | 582 |
| At the mouth of the Beech fork,                                    |       | 582 |
| At the mouth of Craig's creek,                                     |       | 582 |
| At Boonesborough,                                                  |       | 582 |
| At Collier's,                                                      |       | 582 |
| At Limestone,                                                      |       | 582 |
|                                                                    | 1788. |     |
| At the confluence of Hinkleton's and<br>Stoner's forks of Licking, |       | 582 |
|                                                                    | 1789. |     |
| At Walton's,                                                       |       | 583 |
| At the mouth of Cartwright's creek,                                |       | 583 |
| At the mouth of Stuart's creek,                                    |       | 583 |
|                                                                    | 1790. |     |
| At Paris,                                                          |       | 584 |
|                                                                    | 1791. |     |
| At Frankfort,                                                      |       | 584 |

L.

LEXINGTON.

|                                                                 |       |     |
|-----------------------------------------------------------------|-------|-----|
| Established, .....                                              | 1782. | 549 |
| Trustees of, authorised to sell a part of the public lot, ..... | 1789. | 550 |
| Act concerning certain regulations in, .....                    | 1790. | 551 |

LOUISVILLE.

|                                                        |                |     |
|--------------------------------------------------------|----------------|-----|
|                                                        | 1780.          |     |
| Established,                                           |                | 540 |
|                                                        | May, 1783.     |     |
| Sale of lots in, suspended,                            |                | 542 |
|                                                        | October, 1783. |     |
| Part of, the act establishing it repealed,             |                | 542 |
|                                                        | 1784.          |     |
| The last act amended and explained,                    |                | 543 |
|                                                        | 1786.          |     |
| Further time to build given to purchasers,             |                | 545 |
| Sale of lots in, directed,                             |                | 445 |
|                                                        | 1789.          |     |
| Further time given to build in,                        |                | 546 |
| Additional trustees appointed,                         |                | 547 |
|                                                        | 1790.          |     |
| The several acts concerning it, explained and amended, |                | 547 |
|                                                        | 1791.          |     |
| Relinquishment to John Campbell of lands contiguous,   |                | 548 |

## M.

**MAYSVILLE.**

Established, 1787. 565

MILFORD.

Established, 1789. 567

N.

## NEW-MARKET.

Established, 1786. 559

P.

PARIS.

See Hopewell.

**S.**

## SALEM ACADEMY.

Incorporated, 1788. 579

SEMINARY.

See Transylvania.

SHIPPINGPORT.

Established, 1785. 554

STANFORD.

Established, 2786. 558

**TOWNS NOT INCORPORATED.**

A general law respecting, 1778. 537

TRANSYLVANIA SEMINARY.

|                                                                                                      |                    |    |
|------------------------------------------------------------------------------------------------------|--------------------|----|
| Elcheated lands vested in trustees for the<br>use of a public school,                                | 1780.              | 57 |
| Trustees of, incorporated, and various<br>regulations respecting.                                    | 1783.<br>571-2, &c |    |
| One sixth part of the surveyors' fees in<br>Kentucky appropriated to the Tran-<br>sylvania seminary, | 1787.<br>1790.     | 57 |
| Act concerning its trustees,                                                                         |                    | 57 |
| Surveyors to give bond to trustees, &c.                                                              |                    | 57 |

WARWICK.

Established, 1787. 96

WASHINGTON.

Established, 1786.

TABLE  
OF THE  
DECISIONS OF THE COURT OF APPEALS,  
SINCE THE PUBLICATION OF THE SECOND VOLUME.

A.

SPRING TERM, 1810.

*Abatement*, Bibb *vs.* Leavy—*Admissions*, Moore and January *vs.* Lockett—*Amendment*, Boyle *vs.* Connelly—*Assignee of a lost bond*, Todd's heirs *vs.* Rennick—*Assignment of land warrants*, Campbell *vs.* Lapsley's heirs—*Attorney's fee*, Baylor *vs.* Morrillan.

FALL TERM, 1810.

*Administration*, Henning's heirs *vs.* Henning's administrators—*Amendment*, Conn *vs.* Doyle—*Assignment*, Bowman *vs.* Frowman—*Attachment*, Harper *vs.* Bell—*Award*, Lile *vs.* Barnett, Singleton *vs.* Mason, Emmerfon *vs.* Tiltford, Wrigglesworth *vs.* Morton, Payne *vs.* Moore.

B.

SPRING TERM, 1810.

*Bail*, Calkeman *vs.* Bodley, Brashear *vs.* Webb—*Bail bond*, Saunders's ex'rs. *vs.* Alfop—*Bill in equity*, Steele's heirs *vs.* M'Dowell, Woodrough *vs.* Perkins.

FALL TERM, 1810.

*Bankruptcy*—Edwards *vs.* Coleman—*Bonds*, payment in, Wickliffe *vs.* Handley—*Bond*, loss, Helm *vs.* Eastland.

C.

SPRING TERM, 1810.

*Chancery practice*, Lemasters *vs.* Burkhart, Owley *vs.* Fowke, Steele's heirs *vs.* M'Dowell—*Chancery jurisdiction*, Morrillan *vs.* Hart—*Competency*, Gillespie *vs.* Gillespie—*Concealment*, Kennedy *vs.* Johnson, Bowman *vs.* Bates—*Conveyance, fraudulent*, Gillespie *vs.* Gillespie.

FALL TERM, 1810.

*Chancery practice*, Rucker *vs.* Howard, Bell *vs.* Stephens, Johnston *vs.* Rankin—*Clancery jurisdiction*, Holt's ex'rs. *vs.* Grayham—*Condition precedent*, Majors *vs.* Hickman—*Costs*,

Adams *vs.* the commonwealth—*Costs of continuance*, Holland *vs.* Malony.

D.

SPRING TERM, 1810.

*Deeds*, Doty *vs.* Beasley, Donaldson *vs.* Jude—*Demurrer*, Stockton *vs.* Baylefs—*Demurrer to evidence*, Gatewood *vs.* Hiatt—*De-wife*, Robinson *vs.* Robinson.

FALL TERM, 1810.

*Detinue*, Thomas *vs.* Blunt, Boggs *vs.* Newton—*Departure*, Pollard *vs.* Taylor.

E.

SPRING TERM, 1810.

*Ejectment*, Coleman and wife *vs.* Talbot—*Emancipation*, Donaldson *vs.* Jude—*Entries land*, Davis and Young *vs.* Davis, Davis *et al.* *vs.* Bryant, Mason and Johnson *vs.* Graham and Grayson, Shannon *vs.* Buford, Hite *vs.* Graham and Grayson, Wooley *vs.* Bruce, Preble *vs.* Vanhooker, Steele's heirs *vs.* M'Dowell, Robinson and Letcher *vs.* Corn—*Equity*, Bowman *vs.* Irons, Lemasters *vs.* Burkhart, Allen *vs.* Roberts—*Evidence*, Donaldson *vs.* Jude, Hagan *vs.* Vance—*Execution*, commonwealth *vs.* Caldwell.

FALL TERM, 1810.

*Ejectment*, Rice's heirs *vs.* Lowan, Roberts *vs.* Morgan, Kouns *vs.* Grayson—*Election*, Fleming *vs.* Harrison's heirs—*Entries*, Bowman *vs.* Melton, White *vs.* Hobdy—*Evidence*, Garten *et ux.* *vs.* Chandler, Langford *vs.* Owley, Cowen and Davis *vs.* Fountleroy and wife, Rice's heirs *vs.* Lowan—*Execution*, Wagon *vs.* M'Coy's ex'rs. Rearden *vs.* Searcey's heirs.

F.

SPRING TERM, 1810.

*Frauds, statute of*, Ball *vs.* Ball, Chiles *vs.* Woodson, Robinson and Letcher *vs.* Corn, Gillespie *vs.* Gillespie.

FALL TERM, 1810.

*Fee bills, May vs. Robertson—Frauds, statute of, Meaux vs. Caldwell, Crews vs. Todd's ex'rs.*

G.

SPRING TERM, 1810.

*Gift of slaves, Robinson vs. Pitman, Mahan vs. Jane.*

FALL TERM, 1810.

*Gaming, Davidson vs. Grimes*

H.

SPRING TERM, 1810.

*Heirs, Archer vs. Robinson's heirs.*

FALL TERM, 1810.

*Heirs, Abney vs. Brownlee, Hatcher vs. Galloway.*

I.

SPRING TERM, 1810.

*Improvements, Winn's devisees vs. Redman—Indictment, commonwealth vs. English—Infancy, Meredith vs. Sanders—Insolvency, evidence of, Hagin vs. Vance—Interest, Cotton vs. Reaville and Tilford.*

FALL TERM, 1810.

*Allen vs. commonwealth.*

J.

SPRING TERM, 1810.

*Joinder in action, Horton, &c. vs. the Governor—Jeofails, Craig vs. Nettles.*

FALL TERM, 1810.

*Joint contract, Shields vs. Perkins.*

L.

SPRING TERM, 1810.

*Land warrants, Patrick vs. Marshall, Campbell vs. Lapsley's heirs—Limitations, statute of, Gillespie vs. Gillespie.*

FALL TERM, 1810.

*Limitations, statute of, Rice's heirs vs. Lowan, Walker's adm'rs. vs. McGinnes—Loan of slaves, Meaux vs. Caldwell—Lost bond, Helm vs. Eastland.*

M.

SPRING TERM, 1810.

*Magistrates' certificates, Gillespie vs. Gillespie—Mills, Bibb vs. Montjoy.*

FALL TERM, 1810.

*Mortgage, Gray vs. Prather.*

N.

SPRING TERM, 1810.

*New trial, Mahan vs. Jane—Notice, Marshall vs. Patrick.*

FALL TERM, 1810.

*New trial, Shropshire vs. Stephenson, Gales vs. Ship, Craddock vs. Aldridge, Brevard vs. Graham.*

R.

SPRING TERM, 1810.

*Patents, Coleman & ex. vs. Talbot—Pleading, Hardin vs. Harrison—Practice, Cotton vs. Reaville and Tilford, Rose vs. Peyton, Bibb vs. Morton, Stockton vs. Bayless.*

FALL TERM, 1810.

*Parol promise, Crews vs. Todd's ex'rs.—Parties to a bill in chancery, Edwards vs. Morris, Johnston vs. Rankin, Edwards vs. Coleman—Pleading, Majors vs. Hickman, Bels vs. Shepherd, see also Practice—Postmaster, Maxwell vs. M'lvoy—Powers of attorney, Plummer vs. Russell—Practice, Todd's heirs vs. Rennick, Roman vs. Stratton, Rogers vs. Conner, Pickett vs. Pickett.*

R.

SPRING TERM, 1810.

*Replevin, Archer vs. Robinson's heirs, &c.—Roads, Kenton vs. Smith, Ryan vs. Smith.*

FALL TERM, 1810.

*Right of action, Abney vs. Brownlee, Edwards vs. Coleman, Hatcher vs. Galloway.*

S.

SPRING TERM, 1810.

*Salt river, Speed vs. Levere—Sett-off, Bibb vs. Saunders—Slaves, Belmore vs. Caldwell, Robinson vs. Robinson—see also Gift of slaves—Statute of frauds, see Frauds—Statute of limitations, see limitations.*

FALL TERM, 1810.

*Sheriff, Johnston, &c. vs. the Governor—Slavery, Davis vs. Curry—Supreme court, Yocum vs. Chonlin—Surplus land, Shipp vs. Swan—Surveying, Kincaid vs. Taylor.*

U.

SPRING TERM, 1810.

*Usage, Morrison vs. Hart.*

W.

*Warrants, see land warrants.*

